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6 HOLDING BIG TECH ACCOUNTABLE:

7 TARGETED REFORMS TO TECH'S LEGAL IMMUNITY

8 WEDNESDAY, DECEMBER 1, 2021

9 House of Representatives,

10 Subcommittee on Communications and Technology,

11 Committee on Energy and Commerce,

12 Washington, D.C.

13

14

15 The subcommittee met, pursuant to notice, at 10:34 a.m.
16 in the John D. Dingell Room, 2123 Rayburn House Office
17 Building, Hon. Michael F. Doyle, [chairman of the
18 subcommittee] presiding.

19 Present: Representatives Doyle, McNerney, Clarke,
20 Veasey, McEachin, Soto, O'Halleran, Rice, Eshoo, Butterfield,
21 Matsui, Welch, Schrader, Cardenas, Kelly, Craig, Fletcher,
22 Pallone (ex officio); Latta, Guthrie, Kinzinger, Bilirakis,
23 Johnson, Long, Hudson, Mullin, Walberg, Carter, Duncan,
24 Curtis, and Rodgers (ex officio).

25

26 Also present: Representatives Castor, Schakowsky,
27 Trahan; Burgess, Crenshaw, Joyce, McKinley, and Pence.

28

29 Staff Present: Parul Desai, FCC Detailee; Jennifer
30 Eppesron, Counsel; Waverly Gordon, Deputy Staff Director and
31 General Counsel; Tiffany Guarascio, Staff Director; Zach
32 Kahan, Deputy Director Outreach and Member Service; Hank
33 Kilgore, Policy Coordinator; Jerry Leverich, Senior Counsel;
34 Joe Orlando, Policy Analyst; Kaitlyn Peel, Digital Director;
35 Chloe Rodriguez, Clerk; Andrew Souvall, Director of
36 Communications, Outreach, and Member Services; Johanna
37 Thomas, Counsel; Caroline Wood, Staff Assistant; Kate Arey,
38 Minority Content Manager and Digital Assistant; Sarah Burke,
39 Minority Deputy Staff Director; Michael Cameron, Minority
40 Policy Analyst, CPC, Energy, Environment; William
41 Clutterbuck, Minority Staff Assistant/Policy Analyst; Theresa
42 Gambo, Minority Financial and Office Administrator; Jack
43 Heretik, Minority Press Secretary; Nate Hodson, Minority
44 Staff Director; Sean Kelly, Minority Press Secretary; Peter
45 Kielty, Minority General Counsel; Emily King, Minority Member
46 Services Director; Bijan Koochmaraie, Minority Chief Counsel,
47 O&I Chief Counsel; Tim Kurth, Minority Chief Counsel, CPC;
48 Clare Paoletta, Minority Policy Analyst, Health; Olivia
49 Shields, Minority Communications Director; Michael Taggart,
50 Minority Policy Director; Everett Winnick, Minority Director
51 of Information Technology; Evan Viau, Minority Professional
52 Staff Member, Communications and Technology; and Kate

53 O'Connor, Minority Chief Counsel, Communications and
54 Technology.
55

56 *Mr. Doyle. The committee will now come to order.

57 Today the Subcommittee on Communications and Technology
58 is holding a hearing entitled, "Hold Big Tech Accountable:
59 Targeted Reforms to Tech's Legal Immunity.''

60 Due to the COVID-19 public health emergency, members can
61 participate in today's hearing either in person or remotely,
62 via online video conferencing.

63 Members who are not vaccinated and participating in
64 person must wear a mask and be socially distanced. Such
65 members may remove their masks when they are under
66 recognition and speaking from a microphone.

67 Staff and press who are not vaccinated and present in
68 the committee room must wear a mask at all times, and be
69 socially distanced.

70 For members participating remotely, your microphones
71 will be set on mute for the purpose of eliminating
72 inadvertent background noise. Members participating remotely
73 will need to unmute your microphone each time you wish to
74 speak. Please note that, once you unmute your microphone,
75 anything that is said in Webex will be heard over the
76 loudspeakers in the committee room, and subject to be heard
77 by live stream and C-SPAN.

78 Since members are participating from different locations
79 today at today's hearing, all recognition of members, such as
80 for questions, will be in the order of subcommittee

81 seniority.

82 Documents for the record can be sent to Joe Orlando at
83 the email address we provided to staff. All documents will
84 be entered into the record at the conclusion of the hearing.

85 We are now going to have opening statements. The chair
86 now recognizes himself for five minutes for an opening
87 statement.

88 In August 2015, Wesley Greer, a young man who had been
89 recovering from addiction, went to a website seeking to
90 purchase heroin. This website's algorithm took users'
91 information to steer them to groups and individuals who had
92 similar interests. In Wesley's case, the website connected
93 him to a drug dealer. This dealer had been subject to
94 multiple investigations by law enforcement, due to his
95 actions on this particular website. After the website's
96 algorithm steered Wesley to this drug dealer's postings, the
97 two got into direct contact, and Wesley bought what he
98 thought was heroin, but, in fact, was a lethal dose of
99 fentanyl. Wesley was found dead on August 19th.

100 In 2016, another young man, Matthew Herrick, ended an
101 abusive relationship. He soon realized that his ex had
102 created a fake profile of him on a dating app. This app's
103 geotargeting function and algorithm allowed other users to
104 connect with this fake profile. Throughout this app --
105 through this app, Matthews ex sent men to Matthew's home and

106 work, with the expectation that they would be fulfilling his
107 rape fantasy. These traumatizing encounters -- Matthew was
108 followed home, and into stairwells where he worked, and
109 accosted after a shift -- shook Matthew, both emotionally and
110 professionally. Matthew repeatedly asked the app to remove
111 the fake profile. The app, however, did nothing.

112 Wesley's family and Matthew share something in common.
113 They were denied the basic opportunity to determine if these
114 websites shared any legal blame, along with the users who
115 posted the content. The question of whether the platform
116 should be held liable, the companies that developed the
117 algorithms, gathered the data, and profited off the users,
118 was precluded by Section 230. They might not have won, but
119 they never even had a chance to get their case tried.

120 These are just two instances of Section 230 locking the
121 courthouse doors to people with real-world injuries caused by
122 online actions.

123 Since I have chaired this subcommittee, we have held
124 multiple hearings on this issue. We have heard from CEOs of
125 the largest tech platforms, we have heard from small
126 platforms, we have heard from experts, and we have heard from
127 those most affected by these behaviors. And these oversight
128 activities didn't start with me, though. Republicans have
129 been investigating this issue, as well. They have a number
130 of discussion drafts and bills they have introduced. Many of

131 those ideas are worth exploring.

132 The concept of not providing immunity for platforms'
133 algorithms, for example, are in both the Justice Against
134 Malicious Algorithms Act that I have introduced, and Mrs.
135 McMorris Rodgers's discussion draft. There is a bipartisan
136 desire to reform the court's interpretation of Section 230,
137 and the American public wants to see us get things done.

138 I urge all my colleagues, Republican and Democratic, to
139 bring their ideas forward now, and let's work together on
140 bipartisan legislation, because we can't continue to wait.
141 The largest tech companies would like nothing more than for
142 Congress to fight amongst itself, while nothing happens, and
143 they welcome those complaining about process, claiming that
144 Congress doesn't understand, or saying that this would break
145 the Internet, because these platforms don't want to be held
146 accountable.

147 The users suffering harm deserve better from us, and we
148 will act. But for the pandemic, we would have some of these
149 victims with us in the room today. And while they cannot be
150 here in person, the family of Wesley is watching today.
151 Matthew Herrick is watching today. And the advocates for
152 children and marginalized groups and victims' rights are
153 watching today.

154 To start today, we will hear from experts about the
155 harms we are seeing online, and our second expert panel will

156 focus on proposals to reform Section 230. And in a little
157 over a week, Chairwoman Schakowsky will continue this series
158 in her subcommittee, reviewing legislation that can bring
159 additional transparency and accountability for the problems
160 we consider today.

161 I want to thank all our panelists for joining us, and I
162 look forward to their testimony.

163 [The prepared statement of Mr. Doyle follows:]

164

165 *****COMMITTEE INSERT*****

166

167 *Mr. Doyle. And with that, I yield the remainder of my
168 time to Congresswoman Eshoo.

169 *Ms. Eshoo. Thank you, Mr. Chairman, for yielding to
170 me.

171 By way of background, I was on the Conference Committee
172 for the 1996 Telecom Act, and I continue to strongly believe
173 in Section 230's core benefit, which is to protect user
174 speech.

175 But algorithms select what content will appear,
176 personalized for each user. The platform is then more than
177 just a conduit transferring one user speech to others.
178 Platforms should not be immune from courts examining if
179 algorithmic amplification causes harms, and that is the core
180 idea of the two bills I have co-led.

181 So thank you, Mr. Chairman, for convening this highly
182 important hearing, and I yield back.

183 [The prepared statement of Ms. Eshoo follows:]

184

185 *****COMMITTEE INSERT*****

186

187 *Mr. Doyle. The gentlelady yields back. The chair now
188 recognizes my good friend, Mr. Latta, the ranking member for
189 the Subcommittee on Communications and Technology, for five
190 minutes for his opening statement.

191 *Mr. Latta. Well, thank you, my good friend and
192 chairman. I greatly appreciate it. And I also want to thank
193 our witness panel for being here today to discuss the
194 potential legislative reforms to Section 230 of the
195 Communications Decency Act.

196 Republicans on the Energy and Commerce Committee are
197 leading on ways to hold Big Tech companies accountable for
198 the harms caused by their platforms. In January we announced
199 our Big Tech Accountability Platform, which began our efforts
200 to take a comprehensive look at ways to reform Section 230.
201 I am proud Republicans have been focused on and remain
202 focused on reconsidering the extent to which Big Tech
203 deserves to retain their significant liability protections.

204 Every step of the way we have encouraged our Democratic
205 colleagues to join us in the quest to hold Big Tech
206 accountable, while evaluating how we can reform Section 230.
207 We saw input from the public on their concerns with Big Tech,
208 from stakeholders on ways to stop censorship, while
209 protecting small businesses and innovation, and from Members
210 of Congress on proposals that they have supported. Hearing
211 from the public, stakeholders, and Members of Congress

212 informed the discussion drafts that every Republican on this
213 committee released in July.

214 Our discussion drafts ranged from amending Section --
215 [Audio malfunction.]

216 *Mr. Doyle. I can't hear the ranking member.

217 *Mr. Latta. -- 230 to holding Big Tech accountable for
218 taking down constitutionally-protected speech, and
219 facilitating illegal drug sales, to increasing transparency
220 requirements on how social media companies moderate content.

221 Section 230 became law in 1996 in response to several
222 court cases, most notably Stratton Oakmont v. Prodigy
223 Services, to allow online platforms to moderate unlawful or
224 indecent content without fear of liability. It has two main
225 components: a provision that exempts platforms from being
226 liable for content that is posted on their site by a
227 third-party user, and a second provision that exempts
228 platforms from being liable for content that they remove in
229 good faith.

230 The Internet has grown substantially since 1996, and it
231 is clear Big Tech has abused this power granted to them by
232 Congress. They censor conservative voices, and use
233 algorithms to suppress content that does not fit their
234 narrative. They hide research that shows the negative impact
235 their platforms have on the mental health of our children.
236 They allow the sale of illegal drugs on their platforms,

237 including fentanyl, which we all know is killing Americans
238 every day.

239 While these actions are happening on Big Tech platforms,
240 users have no recourse. When conservatives are silenced, the
241 appeals process, if it exists, can be difficult to navigate.
242 Big Tech hides behind Section 230 to avoid liability for
243 real-world harms their platforms are causing, including harms
244 to our children.

245 Section 230 is supposed to protect platforms for
246 removing content in good faith, but says nothing about their
247 liability for when they are acting as bad stewards of their
248 platforms. To address this issue, I have offered a carve-
249 out, Section 230 protections for platforms that supposedly
250 promote, solicit -- or purposely, excuse me, purposely
251 promote, solicit, or facilitate material by another
252 information content provider, if the platform knew or had
253 reason to know that the content would violate criminal
254 Federal law.

255 When Big Tech acts as bad stewards on their platforms,
256 or as Bad Samaritans, they should no longer be entitled to
257 protections under Section 230.

258 We will also discuss legislation noticed on today's
259 hearing which I am concerned could lead to unintended
260 consequences, like curtailing free speech and innovation.
261 Section 230 reform must be taken seriously, and any

262 legislative proposal that eventually gets enacted must be
263 thoroughly vetted.

264 We are at a pivotal time for free speech in America. It
265 is our generation's turn to uphold the rights of -- on which
266 our country was founded.

267 I look forward to hearing feedback from the witnesses on
268 the proposals in front of us today.

269 [The prepared statement of Mr. Latta follows:]

270

271 *****COMMITTEE INSERT*****

272

273 *Mr. Latta. And before I yield back, Mr. Chairman, I
274 would ask unanimous consent that Dr. Burgess, who is not a
275 member of the subcommittee, but a distinguished member of the
276 full committee, be able to waive on to the committee.

277 *Mr. Doyle. Without objection.

278 *Mr. Latta. Thank you very much. And with that, Mr.
279 Chairman, I yield back the balance of my time.

280 *Mr. Doyle. The gentleman yields back. The chair now
281 recognizes Mr. Pallone for five minutes for his opening
282 statement.

283 *The Chairman. Thank you, Chairman Doyle. Today's
284 hearing is the first of two in which this committee will
285 discuss legislative reforms to hold social media companies
286 accountable. And we have two panels today. The first will
287 focus on the insidious problems from which some social media
288 platforms online are profiting. And the second will consider
289 how reforms to Section 230 of the Communications Decency Act
290 can play a part in addressing those problems.

291 And then, next week, in a Consumer Protection and
292 Commerce Subcommittee hearing, we will discuss how consumer
293 protection-focused proposals can increase these companies'
294 accountability to the public.

295 Now, these two legislative hearings come after years of
296 repeated bipartisan calls for online platforms to change
297 their ways. Since 2018 we have held 6 hearings examining

298 tech platforms' accountability, and our members have sent
299 countless letters. The most prominent online platforms have
300 repeatedly feigned ignorance before this committee, but our
301 suspicions, unfortunately, have been repeatedly confirmed,
302 the latest coming from former Facebook employee, Frances
303 Haugen.

304 We learned how the platforms downplayed research that
305 teen girls were especially vulnerable, and suffering online.
306 We have learned how executives knew their algorithms amplify
307 harmful and divisive content, and rejected proposals to fix
308 the issue. We have seen a pattern of platforms highlighting
309 COVID-19 and misinformation, conspiracy theories, and
310 divisiveness. We learned that, during a civil rights audit,
311 one platform failed to disclose that its algorithms
312 disproportionately harm minority groups. For years now,
313 these platforms have acted above the law, and outside the
314 reach of regulators and the public, and it is time -- and it
315 is a time for change, in my opinion.

316 The legal protections provided by Section 230 of the
317 Communications Decency Act have played a role in that lack of
318 accountability by stopping victims from having their cases
319 heard. In one recently-filed suit, a video chatting platform
320 that is commonly used to engage in online sex between users,
321 paired a young girl with a middle-aged man. He convinced her
322 to send nude photos and videos of herself, including by

323 blackmailing her. This man forced her to engage in sexual
324 performances for himself and his friends, and even to recruit
325 others. And based on court precedent, Section 230 may very
326 well threaten justice for this young girl. And I hope it
327 does not, because the platform was responsible for pairing
328 the young girl with the middle-aged man.

329 Now, judges and a whole host of diverse interests,
330 including many of our witnesses, have suggested that courts
331 may have interpreted Section 230 more broadly than Congress
332 intended, and have urged reform. To be clear, Section 230 is
333 critically important to promoting a vibrant and free
334 Internet. But I agree with those who suggest the courts have
335 allowed it to stray too far.

336 Judge Katzmann, the late chief judge of the 2nd Circuit,
337 wrote some clarity to this issue in his dissent in *Force v.*
338 *Facebook*. He stated that Section 230 does not and should not
339 bar relief when a plaintiff brings a claim that is based not
340 on the content of the information shown, but rather on the
341 connections the platform's algorithms make between
342 individuals. Of course, that was not the court's ruling in
343 that case, and the challenge for us is to clarify the statute
344 if the courts don't, while ensuring that we balance the
345 statute's good against the pain it inflicts.

346 So today we will consider four proposals that would
347 amend or clarify Section 230 to protect users, while

348 promoting open and free online dialogue. These bills do not
349 impose liability on the platforms, they do not directly
350 restrict the content that platforms make available. They
351 simply limit the Section 230 protections in certain
352 circumstances, including when platforms use algorithms to
353 amplify certain content. And these targeted proposals for
354 reform are intended to balance the benefits of vibrant, free
355 expression online, while ensuring that platforms cannot hide
356 behind Section 230 when their business practices meaningfully
357 contribute to real harm.

358 Now, I have to say I am disappointed that my Republican
359 colleagues chose not to introduce the discussion drafts they
360 released in July, so that they could be included in today's
361 hearing. In order to actually pass legislation that will
362 begin to hold these platforms accountable, we must work
363 together, and I urge my colleagues not to close the door on
364 bipartisanship for an issue that is so critical. Because,
365 after all, I believe there is more that unites us than
366 divides us on clarifying Section 230.

367 For example, Ranking Member Rodgers's discussion draft
368 includes a provision similar to my Justice Against Malicious
369 Algorithms Act, in that her proposal would clarify that
370 Section 230 immunity does not apply to algorithmic
371 recommendations. While the proposals aren't identical, this
372 is a place for us to start what I hope could be bipartisan

373 work.

374 I just wanted to say one more thing, Mr. Chairman. You
375 know, the real problem I see is that Big Tech's primary focus
376 is to make money. And I know we have a market economy, and
377 that is always a company's primary purpose, but they give the
378 impression to the public that they care about content,
379 values, and have a social purpose, that somehow they care
380 about consumers, or the First Amendment, and they have -- and
381 that, you know, they have some value to the consumer, or to
382 the public. And I hope that continues to be true. But if it
383 is, then they should be held accountable to achieve these
384 goals.

385 You can't go out and say, "I am not primarily focused on
386 making money, I want to help people," but then not be
387 accountable for these bad actions. So I just wanted to
388 mention that.

389 Thank you, Mr. Chairman.

390 [The prepared statement of The Chairman follows:]

391

392 *****COMMITTEE INSERT*****

393

394 *Mr. Doyle. The gentleman yields back. The chair now
395 recognizes Mrs. Rodgers for five minutes for her opening
396 statement.

397 *Mrs. Rodgers. Thank you, Mr. Chairman. Good morning.

398 Big Tech companies have not been good stewards of their
399 platforms. I have been pretty clear with all the CEOs: Big
400 Tech has broken my trust. Big Tech has failed to uphold the
401 fundamental American principle, free speech and expression.
402 Big Tech platforms like Twitter and Facebook used to provide
403 a promising platform for free speech and robust debates. But
404 they no longer operate as public squares. They do not
405 promote the battle of ideas; they actively work against it.
406 They shut down free speech, and censor any viewpoint that
407 does not fit their liberal ideology.

408 And Big Tech has exploited and harmed our children. In
409 our March hearing with the CEOs, I asked the Big Tech
410 companies why they deserve liability protections Congress
411 provided for them more than 20 years ago. Unfortunately,
412 their behavior has not improved, and we only have more
413 examples of them being poor stewards of their platforms.

414 Big Tech has abused its power by defining what is true,
415 what we should believe, what we should think, and controlling
416 what we need. It is wrong.

417 Destroying free speech is what happens in authoritarian
418 countries, behind the great Chinese firewall. Here, in

419 America, we believe in the -- we believe in dialogue, we
420 believe in the battle of ideas. We defend the battle of
421 ideas, and we used to fight to protect our fundamental
422 principles. Rather than censor and silence speech, the
423 answer should be more speech. That is the American way. Big
424 Tech should not be the arbiters of truth. Not for me, my
425 community, our children, or any American.

426 Today we should be focused on solutions that hold Big
427 Tech accountable for how they censor, allow, and promote
428 illegal content, and knowingly endanger our children. It is
429 wrong for anyone to use this opportunity to push for more
430 censorship, more power, and more control over what they
431 determine Americans should say, post, think, and do, which is
432 why I am deeply troubled by the path before us. It is
433 calling for more censorship.

434 One of the bills before us today, the Justice Against
435 Malicious Algorithms Act, is a thinly veiled attempt to
436 pressure companies to censor more speech. The proposal will
437 put companies on the hook for any content an algorithm
438 amplifies or recommends that contributes to "severe emotional
439 injury of any person.'" How does the bill define severe
440 emotional injury? It doesn't.

441 Clearly, companies will have to decide between leaving
442 up content that may offend someone, or fight it in court, or
443 censor content that reaches a user. Which do you think that

444 they will choose? And there is no doubt who they will
445 silence: content that does not line up with their liberal
446 ideology.

447 While the Section 230 bill before us today pushes for
448 more censorship, we believe -- Republicans are fighting for
449 free speech. In January we rolled out our Big Tech
450 Accountability Platform that made clear we will protect free
451 speech and robust debates on Big Tech platforms, and we have
452 been working hard since then.

453 Today we will discuss a number of proposals that reform
454 Section 230. My proposal, which I am leading along with my
455 good friend, Congressman Jim Jordan, narrowly amends Section
456 230 to protect free speech. Small businesses and startups
457 will not be impacted by our bill. We remove the largest Big
458 Tech companies from existing 230 protections, and put them
459 under their own set of rules.

460 Under this proposal, Big Tech will be held accountable
461 for censoring constitutionally-protected speech. Big Tech
462 will no longer be able to exploit the ambiguity and
463 discretion we see in the current law. Big Tech will be more
464 responsible for content that they choose to amplify, promote,
465 or suggest. Big Tech will be forced to be transparent about
466 their content decisions, and conservatives will be empowered
467 to challenge Big Tech censorship decisions. Amending 230
468 alone is not enough, which is why we are taking an all-of-

469 the-above approach, which includes increasing transparency,
470 and also holding Big Tech accountable for how they
471 intentionally manipulate and harm children for their own
472 bottom line.

473 While there is agreement on the need to hold Big Tech
474 accountable with the Section 230 reforms, it is clear there
475 are drastically different approaches and solutions.

476 I look forward to hearing from the witnesses today, and
477 I yield back.

478 [The prepared statement of Mrs. Rodgers follows:]

479

480 *****COMMITTEE INSERT*****

481

482 *Mr. Doyle. The gentlelady yields back. The chair
483 would like to remind members that, pursuant to committee
484 rules, all members' written opening statements shall be made
485 part of the record.

486 So now I would like to introduce our witnesses for
487 today's first panel: Ms. Frances Haugen, former Facebook
488 employee; Mr. James Steyer, founder and CEO of Common Sense
489 Media; Ms. Kara Frederick, research fellow in technology
490 policy, Heritage Foundation; and Mr. Rashad Robinson,
491 president of the Color of Change.

492 We want to thank our witnesses for joining us today. We
493 look forward to your testimony.

494 I do understand that we will lose Mr. Steyer for about
495 10 minutes at 11:30, so I would encourage members to be
496 conscious of that. I understand he will be back at 11:40.
497 And, of course, members may always submit questions for the
498 record.

499 At this time, the chair will recognize each witness for
500 five minutes to provide their opening statement.

501 Before we begin, I would like to explain the lighting
502 system.

503 In front of our witnesses is a series of lights. The
504 light will turn -- initially be green. It will turn yellow
505 when you have a minute remaining. Please begin to wrap up
506 your testimony at that point. The light will turn red when

507 your time expires.

508 So let's get started. Ms. Haugen, you are now
509 recognized for five minutes.

510

511 STATEMENT OF FRANCES HAUGEN, FORMER FACEBOOK EMPLOYEE; JAMES
512 STEYER, FOUNDER AND CEO, COMMON SENSE MEDIA; KARA FREDERICK,
513 RESEARCH FELLOW IN TECHNOLOGY POLICY, THE HERITAGE
514 FOUNDATION; AND RASHAD ROBINSON, PRESIDENT, COLOR OF CHANGE

515

516 STATEMENT OF FRANCES HAUGEN

517

518 *Ms. Haugen. Subcommittee Chairman Doyle, Ranking
519 Member Latta, members of the committee, thank you for the
520 opportunity to appear before you today. My name is Frances
521 Haugen. I used to work at Facebook. I joined the company
522 because I believe Facebook has the potential to bring out the
523 best in us. But I am here today because I believe that
524 Facebook's products harm children, stoke division in our
525 communities, threaten our democracy, weaken our national
526 security, and much more.

527 Facebook is a company that has paid for its immense
528 profits with our safety and security. I am honored to be
529 here today to share what I know, and I am grateful for the
530 level of scrutiny these issues are getting. I hope we can
531 stay focused on the real harms to real people, rather than
532 talk in abstractions.

533 This is about the teenagers whose mental health is
534 undermined by Instagram, and it is about their parents and
535 teachers who are struggling to deal with the consequences of

536 that harm. It is about the doctors and nurses who have to
537 cope with conspiracies about COVID-19 and vaccines. It is
538 about people who have suffered harassment online. It is
539 about families at home and around the world who live in
540 places where hate, fear, and conflict have been ratcheted up
541 to a fever pitch amongst -- as a result of online
542 radicalization.

543 Facebook may not be the cause of all these problems, but
544 the company has unquestionably made them worse. Facebook
545 knows what is happening on the platform, and they have
546 systematically under-invested in fighting these -- those
547 harms. They know they do far too little about it. In fact,
548 they have incentives for it to be this way. And that is what
549 has to change.

550 Facebook will not change until the incentives change.
551 The company's leadership knows how to make Facebook and
552 Instagram safer, but they repeatedly chose to ignore these
553 options, and continue to put their profits before people.
554 They can change the name of the company. But unless they
555 change the products, they will continue to damage the health
556 and safety of our communities, and threaten the integrity of
557 our democracies.

558 There have been many others sounding the same alarm.
559 This committee has heard from many experts in recent years.
560 They have done the painstaking work of documenting these

561 harms, and have been repeatedly gaslit by Facebook about what
562 they found. My disclosures back up their findings.

563 We have long known that Facebook's business model is
564 problematic. Now we have the evidence to prove it. The
565 documents I have shared with Congress speak for themselves.
566 What I have to say about these documents is grounded in far
567 more than my experience at Facebook. I have worked as a
568 product manager at large tech companies since 2006, including
569 Google, Pinterest, Yelp, and Facebook. My job has largely
570 focused on algorithmic products like Google Plus Search, and
571 recommendation systems like the one that powers Facebook News
572 Feed.

573 I know my way around these products, and I have watched
574 them evolve over the many years. Working at four major tech
575 companies that operate different types of social networks has
576 given me the perspective to compare and contrast how each
577 company approaches and deals with different challenges. The
578 choices being made by Facebook's leadership are a huge
579 problem for our children, for our communities, and for our
580 democracy. That is why I came forward.

581 And let's be clear: it doesn't have to be this way.
582 They can make different choices. We are here today because
583 of deliberate choices Facebook has made. During my time at
584 the company, first working as the lead product manager for
585 civic misinformation, and later on counter-espionage, I saw

586 that Facebook repeatedly encountered conflicts between its
587 own profits and our safety. Management consistently resolved
588 those conflicts in favor of its own profits.

589 I want to be extremely clear: this is not about good
590 ideas or bad ideas, or good people and bad people. Facebook
591 has hidden from you the countless ways to make the platform
592 itself safer, so you don't -- that -- and that don't require
593 anyone to pick and choose what ideas are good. But Facebook
594 hid these options from you, because the status quo made them
595 more money.

596 We are having a conflict over things that we could solve
597 in other ways that don't compromise speech. Facebook wants
598 you to have analysis paralysis, to get stuck in false
599 choices, and not act here. Facebook does not have safety by
600 design, and it chooses every day to run the system hot,
601 because it maximizes their profit. The result is a system
602 that amplifies division, extremism, and polarization.

603 Facebook is running the show, whether we know it or not.
604 These choices have led to disastrous ends in too many cases.
605 Facebook's amplification promotes violence that harms and
606 even kills people. In other cases, Facebook's profit-
607 optimizing machine is generating self harm and self-hate,
608 especially for vulnerable groups, like teenage girls, the
609 socially isolated, and the recently widowed. No one is held
610 accountable.

611 These problems have been confirmed repeatedly by
612 Facebook's own internal research, secrets that do not see the
613 light of day. This is not simply a matter of some social
614 media users being angry or unstable. Facebook has made a \$1
615 trillion company by paying for its profits with our safety,
616 including the safety of our children. And that is
617 unacceptable.

618 This committee's attention, this Congress's action are
619 critical. The public deserves further investigation and
620 action to protect customers on several fronts.

621 First, given that platforms like Facebook have become
622 the new cyber security attack surface on the United States,
623 our national security demands more oversight.

624 Second, we should be concerned about how Facebook's
625 products are used to influence vulnerable populations.

626 Third, we must correct the broken incentive system that
627 perpetuates consistent misalignment between Facebook's
628 decisions.

629 *Mr. Doyle. Ms. Haugen, you need to wrap up your
630 statement.

631 *Ms. Haugen. Okay. I will skip forward.

632 As you consider reforms to Section 230, I encourage you
633 to move forward with your eyes open to the consequences of
634 reform. Congress has instituted carve-outs of Section 230 in
635 recent years. I encourage you to talk to human rights

636 advocates who can help provide context on how the last reform
637 of 230 had dramatic impacts on the safety of some of the most
638 vulnerable people in our society, but has been rarely used
639 for its original purpose.

640 The last thing, they should consult with international
641 human -- the international human rights community, who have
642 seen firsthand how authoritarian governments around the world
643 can weaponize reductions in intermediary liability and
644 silence dissent.

645 There is a lot at stake here. You have a once-in-a-
646 generation opportunity to create new rules for our online
647 world. I came forward at great personal risk, because I
648 believe we still have time to act, but we must act now.
649 Thank you.

650 [The prepared statement of Ms. Haugen follows:]

651

652 *****COMMITTEE INSERT*****

653

654 *Mr. Doyle. Thank you. We are going to try to adhere
655 to the five-minute rule. This a very important topic, and so
656 I wanted to give --

657 *Ms. Haugen. My apologies.

658 *Mr. Doyle. -- the speaker some leeway, and we will
659 have time to ask questions. But thank you very much.
660 Mr. Steyer, you are recognized for five minutes.

661 [Pause.]

662 *Mr. Doyle. Do we have Mr. Steyer remotely?

663 *Mr. Steyer. Thank you very much, Chairman --

664 *Mr. Doyle. There we go. There you go.

665

666 STATEMENT OF JAMES STEYER

667

668 *Mr. Steyer. Thank you very much, Chairman Pallone,
669 Chairman Doyle, Ranking Member Rodgers, and Ranking Member
670 Latta, and all the distinguished subcommittee members. This
671 is really a privilege and an honor to testify in front of you
672 today.

673 I am James P. Steyer. I am the founder and CEO of
674 Common Sense Media, the nation's leading children's media and
675 nonpartisan advocacy organization. As many of you know, we
676 have well over 100 million unique users over 110,000 member
677 schools, definitely in all of your districts, and we are a
678 nonpartisan, powerful voice for kids and families here in
679 this country. And the fact that you are having this hearing
680 is actually remarkable and important.

681 The other thing I would say is I am the father of 4
682 kids, so I have lived through, over the past 20 years, the
683 evolution of this extraordinary tech society that we have all
684 lived through. And over the last nearly two years, the
685 pandemic, where my kids have been going to school online and
686 distance learning. So, as a parent, I see these issues.

687 And I would also mention, because I know the First
688 Amendment has come up, that I have been a professor at
689 Stanford for over 30 years, teaching First Amendment law, so
690 I would be happy to speak to some of those issues, as well,

691 as they intersect with some of the 230 issues.

692 Ten years ago I wrote a book called "Talking Back to
693 Facebook.'" The heads of the company at that point that Ms.
694 Haugen just spoke about, literally, threatened to block the
695 publication of the book. Part of the reason was there was a
696 chapter in there about girls and boys' body image, and the
697 impact of social media platforms on body image.

698 And obviously, 10 years ago, the heads of that company,
699 who I have met with repeatedly, knew that there were issues.
700 And so, when Francis Haugen came forward recently to talk
701 about additional research that they knew, it merely just
702 shows you that, not just Facebook, but all of the major tech
703 companies are aware of the impact of their platforms on our
704 society.

705 The key is we are now at a watershed moment. And you
706 have mentioned this in your opening statements, but it is
707 true. We have literally been over a decade without major
708 reforms for these companies, and we have assumed that, in
709 some cases, they would self-police or self-regulate. Well,
710 that is not true, and the record is clear.

711 So the bipartisan leadership of this committee could not
712 be more important, and could not come at a more important
713 time. And I would argue that, in the next three to six
714 months, the most important legislation, including some of the
715 legislation that this subcommittee is considering today, will

716 move forward, and will finally put the guardrails on that
717 America's children and families deserve.

718 We all know that kids and teens are uniquely vulnerable
719 online, because their brains are still developing. They are
720 prone to over sharing. They are not equipped to think
721 through all the consequences of what they do, and they are
722 spending more time online than ever before. So, even though
723 kids get a tremendous amount of benefits from the Internet
724 and from social media platforms, it is absolutely clear that
725 we have to regulate them thoughtfully and carefully. And the
726 moment is nigh, and Congress has a responsibility to kids and
727 families in this country to act.

728 My written testimony will give you more examples, but
729 just a handful of details that I think we should all remember
730 when we think about the impact of social media platforms on
731 kids and families, and, therefore, the relevance of Section
732 230 and other laws.

733 First, platforms drag kids down rabbit holes. They have
734 led to issues like eating disorders, body dysmorphia, suicide
735 ideation, and more. We could tell you stories, as some of
736 our opening statements, as some of you have done in your
737 opening statements, of individual kids who have committed
738 suicide, or gone through extraordinary challenges as a result
739 of these platforms and their harmful content. They literally
740 feed off kids' and teens' desire to be accepted through their

741 likes and their follows, and they enable sometimes harmful
742 comment, virally.

743 So the bottom line is you have this bipartisan
744 consensus, with well over 100 million members. Common sense
745 is out there in the field, every day, talking to families.
746 This is not a Republican issue. This is not a Democratic
747 issue. This is an American family issue, and you have the
748 opportunity to do something very, very important now, and
749 this is the time to act.

750 Look, Ms. Haugen talked about the ways in which Facebook
751 has acted with impunity for decades. Reforming Section 230
752 is clearly one big piece of the puzzle. But I would add that
753 there must be a more comprehensive approach. You cannot just
754 deal with Section 230. We also have to deal with privacy
755 issues and other related issues. They are all one big,
756 comprehensive package. So the hearing next week will also be
757 critically important. And passing revised -- and the kids
758 act and other things will matter.

759 The bottom line is our kids and our families' well-being
760 is at stake. You have the power to improve that, and change
761 that. The moment is here. Bless you for taking this on, and
762 let's move forward together on a bipartisan basis. Thank you
763 very much.

764

765

766 [The prepared statement of Mr. Steyer follows:]

767

768 *****COMMITTEE INSERT*****

769

770 *Mr. Doyle. Thank you, Mr. Steyer.

771 The chair now recognizes Ms. Frederick for five minutes.

772

773 STATEMENT OF KARA FREDERICK

774

775 *Ms. Frederick. Chairs Doyle and Pallone, Ranking
776 Members Latta and McMorris Rodgers, distinguished members,
777 thank you for the opportunity to testify today.

778 I, too, used to work at Facebook. I joined the company
779 after three tours in Afghanistan, helping special operations
780 forces target Aa-Qaida, because I believed in Facebook's
781 mission, as well: the democratization of information. But I
782 was wrong.

783 It is 2021, and the verdict is in. Big Tech is an enemy
784 of the people. It is time all independently-minded citizens
785 recognize this.

786 So what makes this moment different? Traditional
787 gatekeepers of information -- corporate media, the academy,
788 various organs of the culture -- are captured by the left.
789 As the past year has borne out, Big Tech companies like
790 Google, Facebook, Twitter, and Amazon are not afraid to
791 exercise their power in the service of this ideology.

792 Big Tech companies, they tell us not to believe our
793 lying eyes, that viewpoint censorship is all in our heads.

794 Tell that to the gold star mom who criticized Biden's
795 Afghanistan withdrawal, and was deleted by Facebook after the
796 death of her son, a U.S. marine.

797 Tell that to Allie Beth Stuckey, who had the temerity to

798 say that biological men should not compete in women's sports,
799 before being suspended by Twitter.

800 Tell that to Clarence Thomas, whose documentary on
801 Amazon was deleted without explanation.

802 Beyond these examples, which are legion, the confluence
803 of evidence is irrefutable. Twitter and Facebook censor
804 Republican Members of Congress at a rate of 53 to 1, compared
805 to Democrats. Twitter suspends conservatives 21 times more
806 often than liberals. Facebook created 2 internal tools in
807 the aftermath of Trump's 2016 victory that suppress right-
808 wing content, media traffic, and reach on its platform.
809 Google stifled conservative-leaning outlets like The Daily
810 Caller, Breitbart, and The Federalist during the 2020
811 election season, with Breitbart search visibility shrinking
812 by 99 percent, compared to the 2016 election cycle. Apple
813 dumped the conservative-friendly Parler app, as it sat atop
814 its App Store. Google and Amazon Web Services did so, as
815 well.

816 And these practices have distinct political effects.
817 The Media Research Center found in 2020 that one in six Biden
818 voters claimed they would have modified their vote, had they
819 been aware of information that was actively suppressed by
820 tech companies. Fifty-two percent of Americans believe
821 social media suppression of the Hunter-Biden laptop story
822 constituted election interference.

823 These practices erode our culture of free speech, chill
824 open discourse, and engender self-censorship, all while the
825 Taliban, the Chinese Communist Party, and Iranian officials
826 spew their bile and genocidal rhetoric on American-owned
827 platforms.

828 Big Tech is also working hand-in-glove with the
829 government to do its bidding. Jen Psaki admitted from the
830 White House podium that the government is communicating with
831 Facebook to single out accounts and posts for censorship.
832 And that is just what she admitted out loud.

833 The outlook is grim. A lack of accountability and the
834 sweeping immunity conferred on Big Tech by broad
835 interpretations of Section 230 has emboldened these companies
836 to abuse their concentrations of power, constrict the digital
837 lives of those who express specific political views, and
838 sharpen digital surveillance on ordinary Americans.

839 Just look at Apple's now-paused plans to scan the
840 content directly on your personal device, starting with
841 iPhotos. Put simply, big tech companies are not afraid of
842 the American people, and they are not afraid of meaningful
843 checks on their abuse of power. And it shows.

844 Yet we should be wary of calls to further suppress
845 content based on politically-expedient definitions of
846 misinformation. Clearly, this definition is in the eye of
847 the beholder. The Wuhan lab leak theory comes to mind.

848 So let the whistleblower docs speak for themselves.
849 Holding Big Tech accountable should result in less
850 censorship, not more. In fact, the First Amendment should be
851 the standard from which all Section 230 reforms flow.

852 Despite what the new Twitter CEO might think, American
853 lawmakers have a duty to protect and defend the rights given
854 to us by God, and enshrined in our Constitution by the
855 founders, rights that specific tech companies, in conjunction
856 with the government, are actively and deliberately eroding.

857 The argument that private companies do not bear free
858 speech responsibilities ignores overt collaboration between
859 the government and Big Tech companies working together to
860 stifle free expression.

861 Most importantly, Section 230 reform is not a silver
862 bullet. We have to look outside of D.C. for answers.
863 States, civil societies, and tech founders all have a role to
864 play here. We cannot let tech totalitarians shape a digital
865 world, where one set of thinkers are second-class citizens.
866 The window of opportunity to do something is closing.

867 [The prepared statement of Ms. Frederick follows:]

868

869 *****COMMITTEE INSERT*****

870

871 *Mr. Doyle. Thank you, Mr. Frederick.

872 The chair now recognizes Mr. Robinson for five minutes.

873

874 STATEMENT OF RASHAD ROBINSON

875

876 *Mr. Robinson. Chair Pallone, Chair Doyle, Ranking
877 Member McMorris Rodgers, Ranking Member Latta, thank you for
878 having me here today. I am Rashad Robinson, president of
879 Color of Change, the nation's largest online racial justice
880 organization.

881 I also co-chaired the Aspen Institute's Commission on
882 Information Disorder, which just released our comprehensive
883 set of recommendations for effectively tackling
884 misinformation and disinformation.

885 I want to thank this committee and its leaders for your
886 work: introducing the Justice against Malicious Algorithm
887 Act, the Safe Tech Act, the Civil Rights Modernization Act,
888 and the Protecting Americans from Dangerous Algorithms Act.
889 Each one is essential for reducing the tech industry's
890 harmful effects on our lives.

891 Congress is rightly called to major action when an
892 industry's business model is at odds with the public
893 interest, when it generates its greatest profits only by
894 causing the greatest harms.

895 Big Tech corporations like Facebook, Amazon, and Google
896 maintain near-total control over all three areas of online
897 life: online commerce, online content, and online social
898 connection. To keep control, they lie about the effects of

899 their products, just like Big Tobacco lies about the deaths
900 their products cause. They lie to the public. They lie to
901 regulators. And they lie to you. Mark Zuckerberg lied to me
902 personally more than once.

903 It is time to make the truth louder than their lies.
904 But skip the part where we wait 40 years to do it. The most
905 important first step is something we have more control over
906 than we think, and that is drawing a bright, clear line
907 between fake solutions and real solutions.

908 Big Tech would love for Congress to pass laws that mimic
909 their own corporate policies, fake solutions that are
910 ineffective, designed to protect nothing more than their
911 profits and their power. And we can't let that happen. We
912 know what is a fake solution, if we are letting them blame
913 the victims, by shifting the burden of solving these problems
914 to consumers, because consumer literacy, or use of technology
915 is not the problem. The problem is corporations' design of
916 technology, and that is what we need to regulate.

917 If we are pretending that color-blind policies will
918 solve problems that have everything to do with race because
919 algorithms, advertisers, moderators, and bad advertisers are
920 targeting Black people, and we don't get closer to the
921 solution by backing away from that problem, if we are putting
922 trust in anything Big Tech corporations say, because it is a
923 lie that self-regulation is anything other than complete non-

924 regulation, and it is a lie that this is about free speech,
925 when the real issue is regulating deceptive and manipulative
926 content, consumer exploitation, calls to violence, and
927 discriminatory products.

928 Section 230 is not here to nullify 60 years of civil
929 rights and consumer safety law, no matter what any
930 billionaire from Silicon Valley comes here to tell you.

931 There are three ways to know we are heading towards real
932 solutions. Laws and regulations must be crystal clear. Big
933 Tech corporations are responsible and liable for the damages
934 and violations of people's rights, and they not -- that they
935 not only enable, but outright encourage. That requires well-
936 vetted and targeted amendments to Section 230.

937 You are responsible for what you sell. Big Tech
938 corporations sell content. That is their main product.
939 Congress must allow judges, juries, regulators, and
940 government enforcers to do their jobs, to determine what is
941 hurting people, and stop it, and hold the responsible parties
942 liable. Responsibility without accountability isn't
943 responsibility at all. Congress must enable proper
944 enforcement.

945 I want to applaud this committee for ensuring that the
946 Build Back Better legislation includes funding for the FTC.
947 The next step is making sure the FTC hires staff with true
948 civil rights expertise.

949 Laws and regulations must be crystal clear. Big Tech
950 products must be subject to regulatory scrutiny and approval
951 before they release onto the public and hurt people. Just
952 like a drug formula should be approved by the FDA, tech
953 products need to pass inspection, an independent auditing
954 process that exposes what they would like to hide.

955 But regulators can't fall for shifting the burden and
956 blame to consumers. The lie that we simply need to put more
957 control in the hands of users is like stacking our
958 supermarket shelves with poison and expiring food, and then
959 saying we are simply giving consumers more choice.

960 Finally, Congress must take antitrust action seriously,
961 with Big Tech. Ending their massive concentration of power
962 is a necessary condition to ending the major damage they
963 cause. The right approach is not complicated, if we make the
964 Internet safe for those who are being hurt the most. It
965 automatically makes the system safe for everyone, and that is
966 why I am here, because Big Tech puts Black people and people
967 of color in danger more than anyone else.

968 Passing and enforcing laws that guarantee freedom and
969 safety for Black people in online commerce, content, and
970 social connection will create the safest Internet for the
971 largest number of people. You can make technology the
972 vehicle for progress that it should be, and no longer the
973 threat to freedom, fairness, and safety it has become.

974 Do not allow the technology that is supposed to take us
975 into the future drag us into the past. Thank you.

976 [The prepared statement of Mr. Robinson follows:]

977

978 *****COMMITTEE INSERT*****

979

980 *Mr. Doyle. Thank you, Mr. Robinson.

981 We have concluded our openings. We now move to member
982 questions. Each member will have five minutes to ask
983 questions of our witnesses. I will start by recognizing
984 myself for five minutes.

985 Ms. Haugen, last week the Washington Post reported that
986 Facebook knew the structure of its algorithms was allowing
987 hateful content targeting predominantly Black, Muslim, LGBTQ,
988 and Jewish communities. Facebook knew it could take steps
989 with its algorithm to lessen the reach of such harmful
990 content, while still leaving the content up on their website,
991 but they declined to do so.

992 This appears to be a clear case, where Facebook knew its
993 own actions would cause hateful, harmful content to spread,
994 and took those actions anyway.

995 I would also note that, when Mr. Zuckerberg testified
996 before us earlier this year, he bragged about the steps his
997 company took to reduce the spread of hateful content.
998 Shamefully, he left this known information out of his
999 testimony.

1000 Ms. Haugen, setting law aside, do you think Facebook has
1001 a moral duty to reduce this type of content on its platform?

1002 And do you believe they have lived up to that moral
1003 duty?

1004 *Ms. Haugen. I believe Facebook has a moral duty to be

1005 transparent about the operation of its algorithms, and the
1006 performance of those systems. Currently, they operate in the
1007 dark, because they know that, with no transparency, there is
1008 no accountability.

1009 I also believe that, once someone knows a harm exists,
1010 and they know that they are causing that harm, they do have a
1011 duty to address it. Facebook has known since 2018 that
1012 changes they made to their algorithm in order to get people
1013 to produce more content -- i.e. the change from time spent to
1014 meaningful social interactions -- increase the amount of
1015 extreme and polarizing content on the platform.

1016 I can't speak to that specific example, because I don't
1017 know the exact circumstances of it, but Facebook knew that
1018 they were giving the most reach, the most offensive content,
1019 and I will give you a very specific example on those.

1020 Let's imagine you encountered a piece of content that
1021 was actively defaming a group that you belong to. It could
1022 be Christians, it could be Muslims, it could be anyone. If
1023 that posts causes controversy in the comments, it will get
1024 blasted out to those people's friends, even if they didn't
1025 follow that group. And so the most offensive content, the
1026 most extreme content, gets the most distribution.

1027 *Mr. Doyle. Yes. Turning to Instagram, which is owned
1028 by Facebook, can you tell the committee in plain words how
1029 teen girls are being harmed by the content they see on that

1030 platform, and how decisions of Instagram led to this harm?

1031 *Ms. Haugen. Facebook's internal research states that
1032 not only is Instagram dangerous for teenagers, it is actually
1033 substantially more dangerous than other social media
1034 platforms, because TikTok is about performance and doing
1035 things with your friends, Snapchat is largely about augmented
1036 reality and faces, but Instagram is about bodies and social
1037 comparison.

1038 Teenagers are very vulnerable to social comparison.
1039 They are going through a phase of their lives where there is
1040 a lot of things changing. And what Facebook's own research
1041 says is that, when kids fall down these rabbit holes, when
1042 the algorithm finds -- like you start from something like
1043 healthy eating, and it pushes you towards anorexia content,
1044 you have the perfect storm, where kids are put in vulnerable
1045 environments, and then given the most extreme content.

1046 *Mr. Doyle. Yes.

1047 Mr. Robinson, it is disappointing, if not surprising, to
1048 hear the lack of action on the part of Facebook after your
1049 negotiations with Mr. Zuckerberg. And I share your concern,
1050 which you discussed in your testimony, that highlights how
1051 not just the advertisers, but the platforms themselves can
1052 perpetuate discrimination.

1053 Can you discuss how you think targeted amendments to
1054 Section 230 can address some of the actions of the big

1055 platforms?

1056 *Mr. Robinson. Well, right now, we are all in this
1057 situation, where we have to go to Facebook and ask for their
1058 benevolence in dealing with the harms on their platforms,
1059 going to billionaires, where every single day their incentive
1060 structure is growth and profit over safety, integrity, and
1061 security.

1062 And so we have done this before with other industries.
1063 Congress has done this before in this country with other
1064 industries, where we create rules that actually hold them
1065 accountable. And right now, whether it is their product
1066 design on what they recommend and what they lead you to, or
1067 it is in the paid advertisement and content, Facebook is
1068 completely not accountable.

1069 And the other thing that I think is incredibly important
1070 is that they believe that they do not have to adhere to civil
1071 rights law. They have said that before Congress. They have
1072 said that to us. And the idea that we are going to allow
1073 Silicon Valley companies and their lawyers to come here and
1074 say that there are some laws that they are accountable, and
1075 some laws they are not, is that -- is outrageous. And I
1076 think that those targeted amendments to Section 230 both
1077 allow for free speech to exist, which -- any civil rights
1078 leader in this country will tell you that we value and
1079 believe in free speech, while also having accountability for

1080 things that are absolutely not about free speech.

1081 *Mr. Doyle. Thank you. I see my time has expired. I
1082 will now yield to Mr. Latta, the ranking member, for five
1083 minutes.

1084 *Mr. Latta. Well, thank you, Mr. Chairman.

1085 And Ms. Haugen, if I could start my question with you,
1086 the documents you brought forward from your time at Facebook
1087 show that Facebook has intentionally misled the public about
1088 the research they have conducted about the impacts of their
1089 platforms, including the mental health of children.

1090 We have heard from the Big Tech companies, including
1091 Facebook, talk to us about how many -- Section 230 will cause
1092 them to leave content up or take content down, depending on
1093 who they are speaking to.

1094 You spoke in your testimony about how Facebook puts its
1095 profits over people. If that is the case, how do you think
1096 Facebook would adapt to Section 230 reform, where they would
1097 be held liable for certain content on its platform?

1098 *Ms. Haugen. There -- Facebook has tried to reduce this
1099 discussion to the idea of are we taking down of content, are
1100 we leaving up too much content, that kind of thing, when, in
1101 reality, they have lots and lots of ways to make the platform
1102 safer: product choices. Design in the algorithm, where it
1103 is not about picking good or bad ideas, it is about making
1104 sure that the most extreme polarizing ideas don't get the

1105 most reach.

1106 I don't know exactly how Facebook would adapt to 230
1107 reform, but I believe that, in a world where making a series
1108 of intentional choices to prioritize growth and running the
1109 system hot over having safer options, I would hope that
1110 pattern of behavior would be held accountable.

1111 *Mr. Latta. Well, thank you.

1112 Ms. Frederick, you are a former Facebook employee, and
1113 have done significant research on how these platforms censor
1114 content, including political speech, which they disagree.

1115 The platforms claim they do not censor based on
1116 political viewpoint. What is your response to that?

1117 *Ms. Frederick. My response is believe your lying eyes.

1118 Tech companies, they are not neutral gatekeepers of
1119 information. You can see the sourcing in my testimony of --
1120 the litany of examples and new research that I went over in
1121 my opening testimony testifies to exactly what they are
1122 doing, and how skewed it is against viewpoint -- Big Tech
1123 companies are against viewpoints.

1124 Talk to Senator Rand Paul. Talk to Reverend Truman.
1125 Talk to Governor Ron DeSantis. Talk to Steven Crowder. Talk
1126 to Dr. Scott Atlas. Talk to the gold star mom. Talk to Jim
1127 Banks. Talk to Jenna Ellis. Talk to Allie Beth Stuckey.
1128 Talk to Mike Gonzales. Talk to Ryan T. Anderson. All of
1129 these American citizens have been victimized by these tech

1130 companies and by viewpoint censorship.

1131 So when tech companies say, "Look away, this is not
1132 actually happening," I say believe your lying eyes.

1133 *Mr. Latta. Thank you. Let me continue, Ms. Frederick.

1134 As part of the Big Tech accountability platform, I have
1135 offered draft legislation that would amend Section 230 to
1136 narrow liability protection for platforms that promote or
1137 facilitate content that the platform knew or had reason to
1138 believe violated Federal criminal law.

1139 In short, if a platform is acting as a bad Samaritan,
1140 they would not receive Section 230 liability protection in
1141 those instances.

1142 How do you think -- or what do you think about the
1143 impacts this legislation would have, if it would be enacted
1144 into law?

1145 *Ms. Frederick. My thoughts are that you strip immunity
1146 when it is being abused. So if the abuses of this immunity
1147 continue, then you get rid of it. You get rid of the freedom
1148 from civil liabilities when it is being abused by these tech
1149 companies. It is as simple as that.

1150 *Mr. Latta. Let me go back to your testimony, because,
1151 you know, when you were talking, I believe it was 52 to 53 to
1152 1 when it was conservatives to -- liberal viewpoints.

1153 How -- you know, if this is presented to the Big Tech
1154 companies out there, what is the response that you hear from

1155 them on that?

1156 *Ms. Frederick. So I think people try to cover their
1157 rear ends in a lot of ways, but I think Americans are waking
1158 up.

1159 *Mr. Latta. Can I ask you real quick, how do they cover
1160 themselves?

1161 *Ms. Frederick. I am sorry?

1162 *Mr. Latta. How are they covering themselves?

1163 *Ms. Frederick. By saying that we don't do this, by
1164 employing an army of lobbyists in D.C. that say, "We don't do
1165 this," that it is all in your head, by denying reality and
1166 what people who use these platforms actually see happening
1167 for the suppression of political viewpoints.

1168 There is a high level of tech company apologists who
1169 come into these doors, sit at these daises, and say, "This is
1170 not happening, don't believe it," but we have the concrete
1171 information to say that, yes, this is actually happening.
1172 You have the media research center, which is acting as a lion
1173 in this regard, to actually get the numbers, and make sure
1174 that these viewpoint censorship instances are quantified.

1175 A lot of people, especially independent research
1176 organizations, partisan research organizations, don't want to
1177 see that actually happen, and that information get out there,
1178 so they smear the source. But now I think there is stuff
1179 leaking through the cracks, and this is going to eventually

1180 get bigger and bigger, and become a more prodigious movement,
1181 and we need to ensure and support the sources that actually
1182 do that.

1183 *Mr. Latta. Well, thank you very much, Mr. Chairman.
1184 My time has expired, and I yield back.

1185 *Mr. Doyle. The gentleman yields back. The chair now
1186 recognizes Mr. Pallone, the full committee chairman, for five
1187 minutes to ask questions.

1188 *The Chairman. Thank you, Chairman Doyle.

1189 In our March hearing, I heard -- or I asked Mark
1190 Zuckerberg about whether he was aware of the company's
1191 internal research showing that his company's algorithms were
1192 recommending that its users join fringe extremist groups in
1193 Europe and here in large numbers.

1194 And reporting from The Wall Street Journal indicated
1195 that Mr. Zuckerberg failed to fully implement corrective
1196 measures his employees pushed for internally, because it
1197 could have undermined advertising revenue back to profit
1198 again.

1199 So Ms. Haugen, this seems like a pattern of behavior.
1200 So, in your view, what are the most compelling examples of
1201 the company ignoring threats to users in the name of profits?

1202 *Ms. Haugen. Facebook has known since 2018 that there
1203 are -- that the choices that they made around design of the
1204 news feed algorithm were -- while increasing the amount of

1205 content consumed, increasing the length of sessions, that it
1206 was providing hyper amplification for the worst ideas.

1207 I will give you an example. Groups -- like most people
1208 think Facebook is about your family and friends. Facebook
1209 has pushed people more and more aggressively towards large
1210 groups, because it lengthens your session, right?

1211 If we had a Facebook that was like what we had in 2008,
1212 you know, it is about your family and friends. For free you
1213 would get less hate speech, less nudity, less violence. But
1214 Facebook would make less money, because your family and
1215 friends don't produce enough content for you to look at 2,000
1216 pieces of content a day.

1217 Facebook has implemented policies like, if you are
1218 invited to a group, even if you don't accept it, you will
1219 begin to receive content from that group for 30 days, and if
1220 you engage with any of it, it will be considered a follow.
1221 In a world where the algorithms pick the most extreme content
1222 from these mega-groups and distribute it, that kind of
1223 behavior directly is Facebook promoting their profits over
1224 our safety.

1225 *The Chairman. The light went back on.

1226 The Internet and social media platforms have made it
1227 easier for civil rights groups and racial justice groups like
1228 Color of Change to organize around vitally important issues.
1229 However, you firmly demonstrate in your testimony how the

1230 current practices of these platforms have harmed Black and
1231 marginalized communities.

1232 So my question is, as we work to refine the proposals
1233 before us, can you describe how my bill, the Justice Against
1234 Malicious Algorithms Act, will help protect Black and
1235 marginalized voices online?

1236 *Mr. Robinson. Great. Well, first of all, you have a
1237 bill. So thank you, because I think that that has been
1238 incredibly important, is moving towards action. Your bill
1239 removes liability for content information provided through
1240 personalized algorithms, or algorithms that are specifically
1241 tailored to specific individuals, and that, essentially, has
1242 been sort of one of the problems. It is doing something
1243 that, you know, we can't wait.

1244 We have seen Facebook allow advertisers to exclude Black
1245 people from housing, exclude women from jobs, creating these
1246 sort of personalized algorithms that give people experiences
1247 that actually take us outside of hard-won and hard-fought
1248 victories we have had around laws, dragging us from the 21st
1249 century back to the 1950s.

1250 And your bill, as well as other pieces of legislation
1251 that are before this committee, hold these institutions
1252 accountable to not be immune to a whole set of laws and
1253 standards that every single other business in this country
1254 has to adhere to.

1255 *The Chairman. Thank you. Let me ask you another
1256 question.

1257 Some defenders of Section 230 say that changes to the
1258 law will result in a deluge of frivolous lawsuits against
1259 platforms, big and small. So I wanted to ask you, would
1260 reforming Section 230, in your opinion, even if that results
1261 in increased lawsuits, hurt or harm marginalized communities
1262 and small or nonprofit websites that do good work?

1263 *Mr. Robinson. Giving everyday people access and
1264 opportunity to hold big institutions accountable is part of
1265 this country's fabric, being able to give people the
1266 opportunity to raise their voices and push back.

1267 And right now, what we have is big companies, huge,
1268 multinational companies -- Facebook has nearly three billion
1269 users. That is more followers than Christianity. And for us
1270 to say that we shouldn't be able to hold them accountable,
1271 that we shouldn't be able to push back against them is an
1272 outrageous statement.

1273 And so yes, there will be more lawsuits, there will be
1274 more accountability. But that means that there will,
1275 hopefully, be changes to the structures and the way that they
1276 do business. Just like the toys you will be giving to the
1277 children in your family this holiday season have to be
1278 accountable before they get to the shelves because of
1279 lawsuits, because of accountability, we need these companies

1280 to be accountable, and so there will be a trade off.

1281 But as someone who has gone back and forth in the room
1282 with Mark Zuckerberg, with Jack, with Sheryl Sandberg, and
1283 all of these people, and have tried for years to get them to
1284 actually not only move new policies to be more accountable,
1285 but then to actually implement them and enforce them, we
1286 cannot allow them to continue to self-regulate themselves.

1287 *The Chairman. Thank you.

1288 Thank you, Mr. Chairman.

1289 *Mr. Doyle. The gentleman yields back. The chair now
1290 recognizes Mrs. Rodgers, full committee ranking member, for
1291 five minutes to ask questions.

1292 *Mrs. Rodgers. Thank you, Mr. Chairman.

1293 Ms. Haugen, I wanted to start with a yes-or-no question.

1294 Do you support Big Tech's censorship of
1295 constitutionally-protected speech on their platforms?

1296 *Ms. Haugen. Do I -- what do you define as censorship?

1297 *Mrs. Rodgers. Censorship, them controlling what is
1298 constitutionally protected speech under the First Amendment.

1299 *Ms. Haugen. I am a strong proponent of re-architecting
1300 these systems, so that they are more focused on our family
1301 and friends, because this is not about good ideas or bad
1302 ideas, it is about making the system safer.

1303 *Mrs. Rodgers. So the question is --

1304 *Ms. Haugen. Yes.

1305 *Mrs. Rodgers. -- yes or no, do you support them
1306 censoring constitutionally-protected speech under the First
1307 Amendment?

1308 *Ms. Haugen. I believe that we should have things like
1309 fact checks included along with content. I think the current
1310 system --

1311 *Mrs. Rodgers. So I guess I take it as a no.

1312 *Ms. Haugen. I think there are better solutions than
1313 censorship that we should be using.

1314 *Mrs. Rodgers. Okay. Ms. Frederick, obviously, many
1315 Americans have lost trust with Big Tech, and it is because
1316 they are arbitrarily censoring speech that they don't agree
1317 with. And it seems like the censorship is in one direction.
1318 It is against the conservative content.

1319 So, as we think about solutions as to how we are going
1320 to hold Big Tech accountable, we absolutely have to be
1321 thoughtful about being bringing transparency and
1322 accountability. I wanted to ask you to talk about the
1323 difference between misinformation and disinformation.

1324 *Ms. Frederick. Are we talking about these differences
1325 in a sane world? Because, in a sane world, disinformation
1326 would be the intentional propagation of misleading or false
1327 information, and misinformation would just be false
1328 information that sort of spreads on these platforms.

1329 But now we know that both of these terms are being

1330 conflated into a catchall for information that the Left
1331 doesn't like. So, a perfect example of this is the Wuhan
1332 Institute of Virology, when, in the early days of the
1333 pandemic, Tom Cotton floated this theory, and people thought
1334 he is a deranged conspiracy theorist, we have to suppress
1335 this information. Big Tech actively suppressed mentions of
1336 the Wuhan lab leak theory. Now it is part of acceptable
1337 discourse. The New Yorker gets to talk about it. The Wall
1338 Street Journal talks about it. Okay, we can talk about it
1339 again, when Tom Cotton was very much onto something in the
1340 beginning.

1341 And then you look at the same thing, the Hunter Biden
1342 laptop story. This is from the New York Post, incriminating
1343 Hunter Biden and his relationship with Ukraine, et cetera, et
1344 cetera. And Joe Biden, as well. And The New York Post --
1345 excuse me -- and Facebook and Twitter -- we have proof of
1346 this -- actively suppressed links to that information. They
1347 didn't allow people to actually click on the story.

1348 So you have high-level intelligence community officials
1349 -- I am talking the highest level of the U.S. intelligence
1350 community -- saying that the Hunter Biden laptop story, or
1351 all of the hallmarks of Russian disinformation and tech
1352 companies, were completely in tandem with those decisions.
1353 Now, Hunter Biden goes on TV, doesn't deny that the laptop is
1354 his.

1355 *Mrs. Rodgers. Thanks.

1356 *Ms. Frederick. Politico even confirmed the story.

1357 *Mrs. Rodgers. Yes, thank you --

1358 *Ms. Frederick. Misinformation --

1359 *Mrs. Rodgers. Would you speak to concerns around the
1360 government regulating misinformation?

1361 *Ms. Frederick. This is huge. And in July, Jen Psaki
1362 and the surgeon general, they got up on the podium, they
1363 spoke from the White House with the imprimatur of the state,
1364 and they said, "We are directly communicating with Facebook,
1365 and we have pointed out specific posts, specific accounts
1366 that we want them to take off the platform.'" Within a
1367 month, all of those accounts and those users, those posts --
1368 12 of them, in fact -- were gone. CNN gloated about it
1369 later.

1370 So when the government works with these Big Tech
1371 companies to stifle speech, you have a problem, and you have
1372 a First Amendment problem in that regard. The difference
1373 between tech companies and the government policing speech is
1374 -- when that happens.

1375 *Mrs. Rodgers. So I have been working on some
1376 legislation with Jim Jordan, and what it proposes is that it
1377 would remove those Section 230 protections for Big Tech when
1378 they are taking down the constitutionally-protected speech.

1379 It also sunsets the new provisions in five years.

1380 The goal here is for them to have to earn the liability
1381 protections.

1382 So do you believe that this would be an effective way to
1383 hold them accountable, and prevent the censorship?

1384 *Ms. Frederick. I think tech always outpaces attempts
1385 to govern it. The sunset clause is a great idea. We
1386 advocated for it at the Heritage Foundation, so definitely a
1387 good idea. Allow time for us to redress some of the
1388 imbalance between these Big Tech companies and the users, the
1389 American people, by letting us legislate on it, and we
1390 shouldn't be afraid to legislate on it.

1391 *Mrs. Rodgers. Thank you, thank you.

1392 I am quickly running out of time, Ms. Haugen. I do -- I
1393 have significant concerns about the impact on our youth, on
1394 the young generation, on children. And just -- would you
1395 speak briefly about Facebook, and their internal models'
1396 impact on mental health of children, and how it alters their
1397 business model?

1398 *Ms. Haugen. Yes. Facebook knows the future of growth
1399 on the platform's children. That is why they are pushing
1400 things like Instagram Kids, even though they know that the
1401 rates of problematic use are highest in their youngest users.
1402 It is because the younger you are, the less your brain is
1403 formed.

1404 Facebook also knows that kids are suffering alone right

1405 now because their parents didn't live through this experience
1406 of addictive software when they were youths, and kids end up
1407 getting advice like, "Why don't you just not use it," not
1408 understanding how addictive these platforms are.

1409 I think the fact that Facebook knows that, that kids are
1410 suffering alone, and that their products are actively
1411 contributing to this, is a problem. And the fact that they
1412 lied to Congress repeatedly about these harms is
1413 unacceptable.

1414 So I hope that you guys act, because our children
1415 deserve something better.

1416 *Mrs. Rodgers. Thank you.

1417 Thank you, Mr. Chairman.

1418 *Mr. Doyle. The gentlelady's time has expired. The
1419 chair now recognizes Mr. McNerney for five minutes.

1420 *Mr. McNerney. Well, I thank the chair. I thank the
1421 witnesses for this testimony.

1422 Ms. Haugen, I had to leave a company for bad policies,
1423 and it was painful, so I appreciate what you have gone
1424 through.

1425 You have discussed a 2018 change -- and this has been
1426 discussed already in this committee -- the company made to
1427 its algorithms to favor meaningful social interactions, also
1428 known as MSIs. This change was made to increase engagement
1429 based on, my understanding, that it continues to favor

1430 content that is more likely to be shared by others.

1431 The problem is that Facebook research found that MSI
1432 rewarded provocative and negative content of low quality, and
1433 promoted spread of divisive content. Facebook executives
1434 rejected changes suggested by employees that would have
1435 countered this.

1436 So how difficult is it for Facebook to change its
1437 algorithms to lessen the impact of that?

1438 *Ms. Haugen. Facebook knows that individual factors
1439 within meaningful social interactions -- and I want to be
1440 clear, hate speech and bullying is considered meaningful, as
1441 a social interaction, in most languages in the world.

1442 *Mr. McNerney. Sure.

1443 *Ms. Haugen. And Facebook knows that there are
1444 individual terms within that that algorithm that, if you
1445 remove them, you instantly get substantially less
1446 misinformation, substantially less nudity. And Facebook has
1447 intentionally chosen not to remove those factors, because it
1448 would decrease their profits.

1449 So yes, they could do a change tomorrow that would give
1450 us 25 percent less misinformation.

1451 *Mr. McNerney. So that was going to be my next
1452 question, is why wouldn't they do that? But it is obviously
1453 because they --

1454 *Ms. Haugen. Yeah. Actually, I want a slight tweak.

1455 They claim they did it because they wanted people to engage
1456 more, that they wanted it to be more meaningful.

1457 But when they checked six months later, people said
1458 their home feeds were -- or their news feeds were less
1459 meaningful.

1460 And I want it on the record, they didn't do this because
1461 they wanted us to engage. They did it because it made us
1462 produce more content, that the only thing they found that
1463 could get us to produce more things was giving us more little
1464 hits of dopamine in the form of likes, comments, and re-
1465 shares.

1466 *Mr. McNerney. So are there other problematic design
1467 choices the company is making today that would increase
1468 profits and increase proliferation of harmful content?

1469 *Ms. Haugen. Facebook knows that people who are
1470 suffering from extreme loneliness, isolation are often the
1471 ones that form very intense habits involving usage. We are
1472 talking about thousands of pieces of content per day.

1473 You could imagine simple things that said, "Are you
1474 going down a rabbit hole? Are you spending 10 hours a day on
1475 the system?'"

1476 Often, when people get depressed, or experience other
1477 things, they self-soothe. Like, we see this with children
1478 all the time. Facebook could acknowledge this pattern, and
1479 put a little bit of friction in to decrease these kinds of

1480 things, and it would help the most vulnerable users on the
1481 platform, but it would decrease their profits.

1482 *Mr. McNerney. Thank you.

1483 Mr. Robinson, your stark testimony details the harm the
1484 lack of tech platform accountability has had on marginalized
1485 communities, such as some of my communities.

1486 In your testimony you state that Facebook is not just a
1487 tool of discrimination by businesses, but Facebook's own
1488 algorithms are drivers of this discrimination.

1489 Can you talk more about how the algorithms created and
1490 implemented by the platform, including Facebook, leads to
1491 discrimination?

1492 *Mr. Robinson. Absolutely. Well, you know, Facebook's
1493 algorithms, especially the personalized algorithms, allow for
1494 a whole set of ways that people are excluded from
1495 opportunities. or over-included in opportunities, and over-
1496 included and over-recommended into sharing, leading people
1497 down sort of deep rabbit holes, or cutting people off from
1498 housing opportunities, job opportunities, and everything
1499 else.

1500 And they have said, you know -- I remember a
1501 conversation, where we were trying to deal with housing and
1502 job employment discrimination on their platform. There was a
1503 lawsuit against Facebook that they eventually settled, but
1504 never took all the way to the courts, because they

1505 essentially want to be able to keep 230 protections in place.
1506 And the back-and-forth with Sheryl Sandberg and Mark
1507 Zuckerberg about both of those -- about both of those cases,
1508 they said to us deeply, "We care about civil rights.'" You
1509 know, "We care about these issues. It pains us deeply that
1510 our platform is causing these harms, and we are going to work
1511 to fix it.'" And so they settled the case.

1512 And then research comes out, just a couple of months
1513 later, that the same thing is continuing to happen after they
1514 have told us and they have told you that it is no longer
1515 happening on their platform. I sat across from Mark
1516 Zuckerberg, and specifically talked to him about voter
1517 suppression on their platform, only to work with them to get
1518 policies in place, then to watch them -- why they then don't
1519 enforce those policies.

1520 We sat in the room with him on multiple occasions, and I
1521 have to just say, time and time again, that there is no other
1522 place that these changes are going to happen, if it does not
1523 happen here.

1524 *Mr. McNerney. Thank you. Very good answers.

1525 I yield back.

1526 *Mr. Doyle. The gentleman yields back. The chair now
1527 recognizes Mr. Guthrie for five minutes.

1528 *Mr. Guthrie. Thank you, Mr. Chair. I appreciate it
1529 very much. And we are all concerned about misinformation,

1530 and don't want misinformation spread on the Internet.

1531 The question is, how do you define misinformation and
1532 who gets to define it? And this rhetoric -- I will ask the
1533 question of you, but first I want to set up the question.
1534 You kind of set it up earlier with the Wuhan lab.

1535 I am the ranking member of the Health Care Subcommittee,
1536 and we have been really looking into the Wuhan lab, and that
1537 -- this isn't a hypothetical scenario, this is a real
1538 scenario of information getting blocked by -- from Facebook.
1539 And it goes to some of the comments -- and I have got
1540 documentation here -- if you go back to the April 17th White
1541 House press briefing, somebody asked the President, "Would
1542 you'" -- and I want to ask Dr. Fauci, "Could you address the
1543 suggestions or concerns that the virus is somehow manmade,
1544 possibly came out of a laboratory in China?'"

1545 The President says -- and so Dr. Fauci said there was a
1546 study recently -- that we can make available to you -- where
1547 a group of highly-qualified evolutionary biologists looked at
1548 the sequences there, and the sequences in bats as they
1549 evolve, and the mutations that it took to get to the point
1550 where it is now totally consistent with the jump of a species
1551 from animal to a human.

1552 So, disregarding the lab, Sir Peter Daszak sent an email
1553 the next day to Dr. Fauci, as the PI of the R01 grant
1554 publicly targeted by Fox News. Now, this grant was where

1555 EcoHealth Systems was being paid by taxpayer dollars to go to
1556 caves in China and harvest viruses from bats, bats that may
1557 never see a human being, and then taking them to a city of 11
1558 million people, Wuhan, taking -- 11 million people. But he
1559 said to Dr. Fauci, "As the PI of the R01 grant publicly
1560 targeted by Fox reporters at the presidential press briefing
1561 last night, I just wanted to say a personal thank you on
1562 behalf of our staff and collaborators.'" This is from public
1563 information you could FOIA. "I want to'" -- "our staff'" --
1564 "for publicly standing up and stating that the scientific
1565 evidence supports a natural origin for COVID-19 from a bat to
1566 human spillover, not a lab release from the Wuhan Institute
1567 of Virology. From my perspective, your comments are brave.
1568 And coming from your trusted voice, you helped dispel the
1569 myths being spun around the virus origins.'"

1570 And the return email from Dr. Fauci, "Peter, many thanks
1571 for your kind note. Best regards, Tony.'"

1572 So I say that because we had -- who is going to
1573 determine what is misinformation or not? Here is the
1574 National Institutes of Health that we have funded
1575 tremendously over the last few years -- we all had a lot of
1576 faith and trust in -- dismissing that it came from the Wuhan
1577 lab, when there was no evidence to dismiss it. Absolutely --
1578 the evidence doesn't exist today, it didn't exist at the time
1579 to say that it couldn't have come from the lab.

1580 I had a conversation last spring with Dr. Collins and
1581 brought this up, and was really concerned about a lot of
1582 faith in what these guys did. And matter of fact, I quoted
1583 Dr. Fauci on this when people say this came from Wuhan,
1584 "Well, we have virologists saying that it didn't," because
1585 we have had these before our committee, and had no reason to
1586 not believe what they said.

1587 And when I talked with Dr. Collins -- and if somebody
1588 wants to ask him to see if this is an accurate description of
1589 the phone call, I will certainly welcome somebody to do that.
1590 But essentially, I said, "I am disappointed in where it is
1591 coming, because I have looked at a lot of evidence, and it
1592 really appears this could have come, possibly, very more
1593 likely than not, through the lab."

1594 And he goes, "Well, it did originate in nature, so it is
1595 not manmade, originated in nature. Now, if it went to a bat
1596 to a human, from a bat to a mammal to a human, or bat to the
1597 lab, or to the human -- because it got leaked through the lab
1598 -- we don't -- we can't rule that out."

1599 So we are talking about people have been calling myths,
1600 talking conspiracies, whatever, and the whole time they never
1601 could rule it out. And the reason it is relevant to this
1602 hearing is because Facebook took down -- and I got it here --
1603 any comments that it came from the Wuhan lab, manmade in the
1604 Wuhan lab.

1605 And on May 26th -- I need to look at the dates I talked
1606 to Dr. Collins, it is pretty close -- in light of the ongoing
1607 -- Facebook posted, "In the light of the ongoing
1608 investigation into the origin of COVID-19, and in
1609 consultation with public health experts, we will no longer
1610 remove the claim that COVID-19 is manmade or manufactured.''

1611 So my point is who gets -- we have got the top
1612 scientists at NIH, people that a lot of us had faith in, and
1613 quoted -- and now I regret that I quoted them to constituents
1614 who brought these things to my attention -- and now we know
1615 that what they were saying -- if you look at the words, they
1616 might be saying the truth, but it wasn't accurate, in terms
1617 of could it have -- somehow the Wuhan lab was involved in
1618 moving forward. Now the preponderance of evidence is that it
1619 is.

1620 So Ms. Frederick, I guess the question I have is, how
1621 did the social media platforms fail in this?

1622 And then who do we look to for expertise, if we are
1623 going to try to -- well, I have used all my time so you won't
1624 be able to answer it, but how are we going to define what
1625 misinformation is, and who gets to define that?

1626 Those are the questions we are going to have to address
1627 as we move forward, and I yield back. Thank you.

1628 *Mr. Doyle. Was there a question there?

1629 [Laughter.]

1630 *Mr. Doyle. The gentleman yields back. The chair now
1631 recognizes Ms. Clarke for five minutes.

1632 *Ms. Clarke. Good morning, and let me start by thanking
1633 Chairman Doyle and Chairman Pallone for calling this very
1634 important hearing.

1635 I would also like to thank all of our witnesses for
1636 joining us today to discuss accountability in tech, examining
1637 the harm done by the current governing rules, the --
1638 governing the Internet, and exploring targeted reforms to
1639 ensure that the rules and regulations, which initially
1640 created the conditions necessary for Internet use to flourish
1641 and to grow, are not outdated in the face of the
1642 technological advances made this century.

1643 Under the leadership of Chairmen Pallone and Doyle, this
1644 committee has worked for years to better understand and limit
1645 the spread of harmful content on social media platforms. And
1646 now is the time for action. As many social media platforms
1647 have moved away from chronological ranking to a more targeted
1648 user experience, the use of algorithmic amplification has
1649 become increasingly widespread, while remaining opaque to
1650 users and policymakers alike.

1651 This use of algorithmic amplification has far too often
1652 resulted in discriminatory outcomes and the promotion of
1653 harmful content. The lack of transparency into how
1654 algorithms are used, coupled with Big Tech's increasing

1655 dominance in the world of online advertising and commerce,
1656 have seemingly incentivized business models that rely on
1657 discriminatory practices and the promotion of harmful
1658 content.

1659 My first question is for Mr. Robinson.

1660 You touched on this a bit in your written testimony, but
1661 could you expound on how this combination of a lack of
1662 transparency and an industry dominated by a few major players
1663 has been detrimental to communities of color, and how my
1664 legislation, the Civil Rights Modernization Act, would help?

1665 *Mr. Robinson. Absolutely. Well, your piece of
1666 legislation, Congresswoman, takes away liability shield
1667 claims when it comes to targeted advertising, and that is
1668 incredibly important, because, as I have already stated, what
1669 we end up having is these companies creating all sorts of
1670 loopholes and backdoors to get around civil rights law and,
1671 in essence, creating an incredibly hostile environment.

1672 When it comes to the amplification of hate, you know,
1673 Big Tech is profiting off of yelling fire in a crowded
1674 theater. And so I understand that we have these
1675 conversations about the First Amendment, but there are
1676 limitations to what you can and cannot say.

1677 And right now, the incentive structures in the business
1678 models of Big Tech, the recommendations, what they amplify,
1679 and what they choose to amplify -- in a conversation with

1680 Mark Zuckerberg about dealing with the deep impact of census
1681 disinformation on his platform, we were trying to have a
1682 conversation about a set of policies they could have put in
1683 place to deal with census disinformation. Mark decided to
1684 bring up a young woman, a young dreamer that he mentors in
1685 East Palo Alto, and told the story of her being a DACA
1686 recipient. And he was afraid that, if he limited in some way
1687 census disinformation, that it would limit her from being
1688 able to express concern, given the challenges that happened
1689 around DACA.

1690 My response was, "Well, what other decisions does this
1691 young woman get to make at Facebook? And is she putting
1692 millions of dollars behind her posts?" Because if she is
1693 not putting millions of dollars behind her post, then, in
1694 fact, maybe her friends won't even see it on the platform.

1695 But this is, essentially, what we are dealing with, and
1696 this is why we are before Congress. Because, at the end of
1697 the day, self-regulated companies are unregulated companies.
1698 And Facebook and their billionaires will continue to put
1699 their hands on the scale of injustice as long as it makes
1700 them more money.

1701 And only Congress can stop them from doing it, and
1702 Congress has done this before in the past when it comes to
1703 other companies which have harmed and hurt us, and that is
1704 why we are here.

1705 *Ms. Clarke. Thank you.

1706 Mr. Steyer, your testimony focused on many of the
1707 negative impacts of algorithmic amplification and prolonged
1708 screen time on children and young people. This is something
1709 I am very concerned about, particularly because we cannot yet
1710 fully understand the long-term impact as the children of
1711 today grow into leaders of tomorrow.

1712 Can you please explain for the committee how companies
1713 use Section 230 protections to continue these dangerous
1714 practices?

1715 *Mr. Steyer. Sure. And I think that Ms. Haugen has
1716 actually also referenced that, Congresswoman Clarke.

1717 And the truth is this: because of the fact -- and we
1718 are using Facebook as an example, but don't forget there are
1719 other social media platforms that act similarly. Because
1720 they focus completely on engagement and attention -- this is
1721 really an arms race for attention -- what happens is kids are
1722 -- basically, become addicted to the screen, because of the
1723 design techniques. Actually, Congresswoman Schakowsky is
1724 going to have a hearing next week about it.

1725 But the bottom line is they are trying to -- the
1726 business model encourages engagement and constant attention,
1727 and that is very damaging to children, because it means they
1728 spend more and more time in front of a screen. And that is
1729 not a healthy thing.

1730 So that is the fundamental business model that leads to
1731 the focus on attention and engagement that is damaging to
1732 children. Thank you very much for the question.

1733 *Ms. Clarke. Thank you, Mr. Chairman. I yield back.

1734 *Mr. Doyle. The gentlelady yields back. The chair now
1735 recognizes Mr. Kinzinger for five minutes.

1736 *Mr. Kinzinger. Well, thank you, Mr. Chairman, and
1737 thank you all for being here. This hearing is important and
1738 timely.

1739 I find the underlying subject is growing tiring at the
1740 same time. We asked social media companies nicely to change
1741 their operations for the public good. We hold hearings. We
1742 warn of major legislative and regulatory changes, and nothing
1743 gives. They nibble around the edges from time to time,
1744 usually when major news stories break, but things continue to
1745 get worse over time, and not better, which is why I have been
1746 working for years now to find reasonable and equitable policy
1747 solutions.

1748 In recent years, my approach has been to avoid amending
1749 Section 230, because I felt that we should be considering
1750 other options first. So I introduced two bills, Social Media
1751 Accountability and Account Verification Act and the Social
1752 Media Fraud Mitigation Act. Both narrow in scope, and don't
1753 amend 230. It would have had the FTC undertake a narrow
1754 rulemaking to require more action from social media companies

1755 to investigate complaints about deceptive accounts and
1756 fraudulent activity on their platform, and I believe they
1757 strike a good balance. It would have a positive impact on
1758 consumer protection, without making drastic policy changes.

1759 But today, given the current state of affairs, and the
1760 clear danger social media is posing to society, I am more
1761 open to the amend Section 230 camp than I used to be.

1762 And just to drive home my initial point about how
1763 tiresome this has become, the blame can't be placed solely on
1764 social media companies. Despite my lengthy engagement with
1765 my colleagues before introducing my bills, and even after
1766 making changes to the bills based on their feedback, I could
1767 not find a partner on the other side of the aisle to lock
1768 arms with me, take a stand, and put something bipartisan out
1769 there to at least get the conversation going.

1770 Honestly, there are ideas coming from both sides of the
1771 dais that are worthy of debating, but the devil is always in
1772 the details. But if we are not even trying to engage in a
1773 bipartisan process, we are never going to get a strong or
1774 lasting set of policy solutions. I am disappointed it has
1775 taken my colleagues nearly a year to engage with me on this
1776 issue, but I hope this hearing is the first step of many
1777 steps that seemingly we have already had to join together and
1778 hold Big Tech accountable.

1779 Ms. Haugen, I want to thank you directly for your recent

1780 efforts to bring about a broader conversation about the harms
1781 of social media. As you may recall, in the spring of 2018,
1782 Mark Zuckerberg testified before us. During the course of
1783 that hearing he stated that Facebook has a responsibility to
1784 protect its users.

1785 Do you agree that Facebook and other social media
1786 companies have a responsibility to protect their users?

1787 And if you do, do you believe that they are fulfilling
1788 that responsibility?

1789 *Ms. Haugen. I do believe they have a duty to protect
1790 their users.

1791 I want to remind everyone in this room that, in the
1792 majority of languages in the world, Facebook is the Internet.
1793 You know, 80 to 90 percent of all the content in that
1794 language will be on Facebook. In a world where Facebook
1795 holds that much power, they have an extra high duty to
1796 protect.

1797 I do not believe they are fulfilling that duty today and
1798 -- because of a variety of organizational incentives that are
1799 misaligned, and Congress must act in order to realign those
1800 incentives.

1801 *Mr. Kinzinger. I agree with you.

1802 Ms. Frederick, let me ask you, you are also a former
1803 Facebook employee as part of their Global Security
1804 Counterterrorism Analysis Program, so I am going to ask you

1805 the same question. Do Facebook and other social media
1806 companies have a responsibility to protect their users, and
1807 are they fulfilling that responsibility?

1808 *Ms. Frederick. They do have a responsibility to
1809 protect their users. The days of only blaming the addict and
1810 letting the dealer get off scot free are over. I think
1811 everybody recognizes this at that point.

1812 And I want to say in October of 2019 Mark Zuckerberg
1813 stood on the stage at Georgetown University and said Facebook
1814 was going to be the platform that stands up for freedom of
1815 expression. He has rankly abrogated those values. And the
1816 difference between what these companies say and what they
1817 actually do is now a yawning chasm.

1818 *Mr. Kinzinger. It has been reported and discussed
1819 today that algorithms employed by some of the biggest
1820 companies tend to lead users to content which reinforces
1821 their existing belief or, worse, which causes anxiety, fear,
1822 and anger, all of which have been shown to lead to decreased
1823 -- to increased engagement from the user, regardless of their
1824 damaging effects.

1825 Ms. Frederick, given your background, can you describe
1826 the national security concerns with the ways in which social
1827 media companies design and employ those?

1828 And if we have time, Ms. Haugen, too.

1829 *Ms. Frederick. Yes, I went to work for Facebook

1830 because I believed in the danger of foreign Islamic
1831 terrorism. I went to make sure that the platform was hostile
1832 to those bad actors, illegal actors. And I think, when -- I
1833 think we can imbue technology with our values. This is the
1834 whole concept behind privacy by design. And you need to let
1835 those programmers who actually code these algorithms -- they
1836 need to be transparent about what they are doing, and how
1837 they operate, and how they impact users, as well.

1838 *Mr. Kinzinger. Yes?

1839 *Ms. Haugen. I am extremely concerned about Facebook's
1840 role in things like counterterrorism, or other counter -- or
1841 counter-state actors that are weaponizing the platform.
1842 Facebook is chronically under-invested in those capacities.
1843 And if you knew the size of the counterterrorism team for the
1844 threat investigators, you would be shocked. Like, I am
1845 pretty sure it is under, like, 10 people. This should be
1846 something that is publicly listed, because they need to be
1847 funding hundreds of people, not 10 people.

1848 *Mr. Kinzinger. Thank you -- Mr. Chairman, thank you to
1849 the witnesses, and thank you. I yield back.

1850 *Mr. Doyle. The gentleman yields back. The chair now
1851 recognizes Mr. McEachin for five minutes.

1852 *Mr. McEachin. Thank you, Mr. Chairman. And I want to
1853 say to my colleague and friend, Mr. Kinzinger -- forgive me
1854 for butchering your name -- that I appreciate your comments

1855 about bipartisanship. I share them, and -- with the notion
1856 that, if we are going to have something that is going to last
1857 Congress from Congress -- changes and parties and what not --
1858 we are going to need to have something that is bipartisan.
1859 And I invite you to take a look at the Safe Act, which I
1860 think takes a unique and different approach to Section 230
1861 liability.

1862 That being said, colleagues, I want to ask all of you
1863 all to rethink, or really understand the message we are
1864 sending when we talk about immunity. Because when we say
1865 "immunity," what we are really saying is that we don't trust
1866 juries. Think about that. We don't trust a jury, properly
1867 instructed, to get it right. That is one reason you have
1868 immunity, because you are afraid the jury is going to get it
1869 wrong.

1870 Remember, my colleagues, that juries are composed of the
1871 same people who sent us to Congress. They are the people who
1872 trust us to make trillion-dollar judgments, to decide war and
1873 peace, to decide any number of things. If they are wise
1874 enough to do that, why are we so arrogant to believe that
1875 they are not wise enough, when properly impaneled, properly
1876 instructed by a jury, that they can't get it right? And so I
1877 want you to start thinking about immunity in that context, as
1878 we go forward, if you would do -- would be so kind to do so.

1879 I would like to direct my first question, Mr. Chairman,

1880 to the color of change, Mr. Robinson.

1881 And I note that you say that there are three ways that
1882 we know we are headed towards real solutions. And the first
1883 one jumps out at me -- say that laws and regulations must be
1884 crystal clear. Now, when I came to Congress, I was just a
1885 small-town lawyer trying to make good, and I don't know what
1886 an algorithm is from a rhythm and blues section, quite
1887 frankly. But I do know how to say that immunity is not
1888 available if you violate civil rights, immunity is not
1889 available for any number of legal actions. That is the
1890 approach the SAFE TECH Act takes.

1891 Do you see that as meeting your first criteria?

1892 Can you comment on how you believe the Safe Act will
1893 ultimately help with Big Tech's abuses?

1894 *Mr. Robinson. Absolutely, I do believe that it meets
1895 that mark. I believe that it meets the mark because, the
1896 fact of the matter is that Facebook, Twitter, Google, Amazon,
1897 they have all come before you, and have explained that they
1898 are not subject to civil rights law, and that they can get
1899 around the laws on the books and create all sorts of harms
1900 through the choices that they are making.

1901 And right now, we need a set of laws that make it so
1902 that they are not immune. And your point around juries --
1903 and I would add regulators, I would add sort of the
1904 infrastructure that we have in this country to hold

1905 institutions accountable -- gets thrown out the window when
1906 we are dealing with tech companies out in Silicon Valley
1907 because, somehow, they exist on a completely different plane,
1908 and are allowed to have a completely different set of rules
1909 than everyone else.

1910 And the fact of the matter is freedom of speech is not
1911 freedom from the consequences of speech. This is not about
1912 throwing someone in jail. This is about ensuring that, if
1913 you say things that are deeply liable, if you incite
1914 violence, if you incite hate, that you are -- you can be held
1915 accountable for that, and that if you are recommending folks
1916 to that, and you are moving people through paid
1917 advertisement, and your business model is amplifying that,
1918 that there is accountability baked into it.

1919 And I don't understand why we continue to let these
1920 platforms make billions of dollars off of violating things
1921 that we have worked hard in this country to move forward on.
1922 And that, I think, is why really understanding the difference
1923 between solutions that are real and solutions that are fake
1924 -- and I think the Safe Act gets us there, as one of the
1925 pieces of a piece of legislation that we need to consider.

1926 *Mr. McEachin. Mr. Robinson, I would ask you, do you
1927 agree with me that, just because the immunity is removed,
1928 doesn't mean the plaintiffs are all of a sudden going to win
1929 every lawsuit?

1930 *Mr. Robinson. No, of course not. And I don't think
1931 anyone here believes that. But what it does mean is that we
1932 end up actually being in a place where there can be some
1933 level of accountability. And we -- and you don't end up
1934 having a situation where Mark Zuckerberg, or Sheryl Sandberg,
1935 or Jack, or anyone else can come here and sit before you and
1936 lie about what their platforms are doing, decide when they
1937 are going to be transparent or not, and walk away, and feel,
1938 like, no -- absolutely no accountability.

1939 And this is not just impacting Black communities. This
1940 is impacting evangelical communities. This is impacting
1941 LGBTQ communities. This is impacting women. It is impacting
1942 people at the intersection of so many different experiences
1943 in life that we have allowed these companies to operate in
1944 ways that are completely outside of what our rules should
1945 look like.

1946 *Mr. McEachin. Thank you, Mr. Chairman. I thank you
1947 for your patience in allowing me to trespass on your time,
1948 and I yield back.

1949 *Mr. Doyle. The gentleman yields back. The chair now
1950 recognizes Mr. Bilirakis for five minutes.

1951 *Mr. Bilirakis. Thank you, Mr. Chairman, I appreciate
1952 it. I want to focus my questions on the Section 230, how it
1953 interacts with child exploitation online.

1954 In 2019 research from the National Center for Missing

1955 and Exploited Children reported that child pornography has
1956 grown to nearly one million detected events per month,
1957 exceeding the capabilities of law enforcement. That number
1958 increased to over 21 million in 2020, and is on track to grow
1959 again this year, unfortunately.

1960 Ms. Frederick, if a tech company knows about a
1961 particular instance of child pornography on its platform, but
1962 decides to ignore and permit its distribution, would Section
1963 230 prevent the victim from suing the tech company?

1964 *Ms. Frederick. I would say that, given Section 230's
1965 broad interpretations by the courts, companies have
1966 historically avoided liability for hosting similar content.

1967 *Mr. Bilirakis. Okay. As a follow-up, if a brick-and-
1968 mortar store knowingly distributes child pornography, can the
1969 victim sue that particular business, in your opinion?

1970 *Ms. Frederick. Yes, obviously.

1971 *Mr. Bilirakis. Thank you. I don't see any reason why
1972 we should be giving special immunities, Mr. Chairman, to
1973 online platforms that don't exist for other businesses when
1974 it comes to a business knowing, exploiting our -- knowingly
1975 exploiting our children and facilitating child pornography.

1976 It would be a discredit to us all to allow this to
1977 continue, which is why I have a public bill, a draft, I think
1978 you can see, that seeks to end this despicable protection, so
1979 I request bipartisan support in this matter. I think we have

1980 agreement. And, in general, I believe we have agreement.

1981 And this is a very, very informative hearing, Mr.
1982 Chairman. And thank you for calling it. I yield back the
1983 balance of my time. I know you will like that.

1984 And, by the way, the Pirates do have a bright future.
1985 Thank you.

1986 *Mr. Doyle. I can only hope you are right about that,
1987 Gus.

1988 Let's see, the chair recognizes Mr. Veasey for five
1989 minutes.

1990 *Mr. Veasey. Mr. Chairman, thank you very much for
1991 holding this very important hearing on 230. It is really
1992 timely and critical that we start talking about how we can
1993 move the needle on this issue, and hold Big Tech accountable.

1994 We know that recent reports demonstrate concerning
1995 trends that should put every member of this committee, and
1996 certainly every Member of Congress, on alert about the
1997 shortcomings of Big Tech, and their repeated promise to self-
1998 regulate.

1999 I am optimistic that we can get something done, because
2000 I really do think that social media platforms are, no
2001 question, a major source of and a dominant source of news now
2002 in our lives, whether it is entertainment, personal
2003 connections, news, even local news, advertising, all of that
2004 happens in the social media world. But we also continue to

2005 see social media platforms acting in a problematic way, and,
2006 in some instances, even endangering the lives of very young
2007 kids.

2008 And today is no different. Social media platforms
2009 continue to behave without an honest, solution-oriented
2010 approach to stop the spread of misinformation, to manipulate
2011 public opinion. And we know rampant disinformation about
2012 things like voter fraud is still present in our communities.
2013 And as this new variant of COVID-19 lurks around the corner,
2014 Congress really needs to act now, so we can stop the spread
2015 of misinformation around COVID-19 and this new variant that
2016 is about to come through.

2017 It is very disconcerting to think about some of the
2018 things that we are about to hear about this new variant that
2019 is just a bunch of BS. And while social media platforms
2020 continue to flourish in the number of users they are able to
2021 keep on their platform, the number of reported harms
2022 associated with social media is just one of many consequences
2023 we are seeing as a result of Big Tech business practices.

2024 For instance, the Anti-Defamation League says about 41
2025 percent of Americans experienced some form of online
2026 harassment next year. So doing nothing is not an answer. We
2027 have to do something. And I think that we can do that.

2028 And I wanted to ask the panel the question. Again,
2029 there is no doubt that Big Tech companies have just been

2030 flat-footed when it comes to getting ahead of removing
2031 harmful content and disinformation on the most popular social
2032 media platforms.

2033 Ms. Frances Haugen, you have mentioned numerous times
2034 during your interview on 60 Minutes that you wanted to show
2035 that Facebook cares about profits more than public safety.
2036 In November of this year Facebook, which has now rebranded
2037 itself as Meta, announced that it is working with the civil
2038 rights communities, privacy experts, and others to create a
2039 race data measurement. Given your experience and background
2040 in the field, can you talk about how Facebook incorporates
2041 such recommendations into these types of measuring tools?

2042 And is there a criteria or a set of guidelines that
2043 Facebook is considering when shaping the product?

2044 *Ms. Haugen. While I was there I was not aware of any
2045 actions around analyzing whether or not there was a racial
2046 bias in things like ranking.

2047 One of the things that could be disclosed by Facebook,
2048 but does not, is the concentration of harm on the platform.
2049 So, for every single integrity harm type, every safety harm
2050 type, a small fraction of the users are hyper-exposed to that
2051 harm. It could be misinformation, it could be hate speech.
2052 And Facebook has ways to report that data in a privacy-
2053 conscious way today that will allow you to know whether or
2054 not harms across the platform were equally borne.

2055 *Mr. Veasey. So --

2056 *Ms. Haugen. But they don't do it, just so you know.
2057 Yes.

2058 *Mr. Veasey. So this new tool that they are talking
2059 about creating, do you see any potential drawbacks to
2060 creating such a measurement, which is supposedly one to
2061 increase fairness when it comes to race in the U.S. on this
2062 platform? Is there anything that we should be on the lookout
2063 for?

2064 *Ms. Haugen. While -- when I was working on narrow cast
2065 misinformation, we developed the system for segmenting the
2066 U.S. population in a privacy-conscious way. We looked at the
2067 groups and pages that people interacted with, and then
2068 clustered them in a non-labeled way. So we are not assigning
2069 race to anyone, we are not assigning any other
2070 characteristics, but we are looking at -- when we look at
2071 consistent populations, do they experience harms in an
2072 unequal way?

2073 I don't believe there would be any harms for Facebook
2074 reporting this data, and I believe it is the responsibility
2075 of the company to disclose the unequal treatment on the
2076 platform, because it is the only way -- if they are not held
2077 accountable, if there is not transparency, they will not
2078 improve. There is no business incentive for them to get this
2079 more equitable if it comes at a loss in profits.

2080 *Mr. Veasey. Thank you very much.

2081 Mr. Chairman, I yield back.

2082 *Mr. Doyle. The gentleman yields back. The chair now
2083 recognizes Mr. Johnson for five minutes.

2084 *Mr. Johnson. Thank you, Mr. Chairman. You know, this
2085 topic we are discussing today is certainly not a new one.
2086 This committee has told Big Tech that they cannot claim to be
2087 simply platforms for third-party information distribution,
2088 while simultaneously acting as content providers, and
2089 removing lawful content based on political or ideological
2090 preferences.

2091 In other words, Big Tech cannot be both a tech platform
2092 and content provider, while still receiving special
2093 protections under Section 230.

2094 Free speech involves not only being able to say what you
2095 believe, but also protecting free speech for those with whom
2096 you strongly disagree. That is fundamental in America. And
2097 Big Tech should not be granted the right to choose when this
2098 right to free speech is allowed, or when they should refer --
2099 or prefer to hide, edit, or censor lawful speech on their
2100 platforms. They are not the arbiters of the freedoms
2101 constitutionally provided to the American people.

2102 This committee has brought in Big Tech CEOs numerous
2103 times now. So far, they have chosen to arrogantly deflect
2104 our questions, and ignore the issues we have presented to

2105 them. It took a whistleblower, whom we are fortunate to have
2106 with us today, to expose the harm that Facebook and other
2107 social media platforms are causing, especially to children
2108 and teens at an impressionable age. That harm concerns me.

2109 I have a discussion draft that would require companies
2110 to disclose the mental health impact their products and
2111 services have on children. Perhaps such requirements would
2112 prevent the need for a whistleblower to expose highly
2113 concerning revelations, including that executives knew the
2114 content of their social media platforms are toxic for teenage
2115 girls.

2116 And perhaps it would incentivize these executives to
2117 come back to us with solutions that enable a safer online
2118 experience for its users, rather than attempting to debunk
2119 the evidence of their toxicity.

2120 However, we also must be careful when considering
2121 reforms to Section 230, as over regulation could actually
2122 lead to additional suppression of free speech. It is our
2123 intent to protect consumers while simultaneously enabling
2124 American innovation to grow and thrive without burdensome
2125 government regulation. So --

2126 [Audio malfunction.]

2127 *Mr. Johnson. I don't know who that was. That wasn't
2128 me, Mr. Chairman. That is not my accent, as you can tell.

2129 Ms. Frederick, the Chinese Communist Party has multiple

2130 agencies dedicated to propaganda.

2131 *Ms. Frederick. Oh, yes.

2132 *Mr. Johnson. From the ministry for information
2133 industry, which regulates anyone providing information to the
2134 public via the Internet, to the central propaganda department
2135 which exercises censorship powers through licensing of
2136 publishers. How do Big Tech's actions compare to those of
2137 the CCP, the Chinese, when it comes to censoring content?

2138 *Ms. Frederick. I would say that a healthy republic
2139 depends on the genuine interrogation of ideas.

2140 And having said that, I am very troubled by what I see
2141 as an increasing symbiosis between the government and Big
2142 Tech companies.

2143 I talked about Psaki's press conference, but what I
2144 didn't say is in that July press conference -- again, from
2145 the White House podium -- she said, "If one user is banned
2146 from one private company, they should be banned from all
2147 private companies' platforms.'" That, to me, is harrowing.
2148 What company is going to want to start up, if 50 percent of
2149 their user base is automatically -- because the government
2150 says so?

2151 *Mr. Johnson. Yes.

2152 *Ms. Frederick. So, in my mind, that increasing
2153 symbiosis between the government and tech companies is very
2154 reminiscent of what the CCP does, and --

2155 *Mr. Johnson. Okay --

2156 *Ms. Frederick. -- it needs to be stopped.

2157 *Mr. Johnson. Ms. Haugen, in your testimony to the UK
2158 Parliament, you recommend that a Federal regulator should
2159 have access to platforms, internal processes, and the ability
2160 to regulate their process for removing content.

2161 Just yesterday one of my Democrat colleagues agreed with
2162 your recommendation for more government intervention. I am
2163 seriously troubled by my colleagues thinking that government
2164 involvement in private business operations to regulate
2165 content is even an option to put on the table. Bigger
2166 government means less innovation, less production, and less
2167 progress, not to mention the very serious First Amendment
2168 implications. This is un-American.

2169 Ms. Frederick, quickly, can you talk about the negative
2170 impacts this approach would cause?

2171 *Ms. Frederick. It is authoritarianism.

2172 *Mr. Johnson. Okay, thank you.

2173 *Ms. Haugen. I was --

2174 *Mr. Johnson. Mr. Chairman, I yield back.

2175 *Ms. Haugen. I was mischaracterized. The only thing I
2176 have advocated for is transparency, and the government
2177 mandating that Facebook must articulate what it is doing to
2178 solve problems, because today they lie to us. They give us
2179 false data when they rarely give any data, and they always

2180 just say, "We are working on it.'" They never actually give
2181 progress. So I just want to clarify my opinions.

2182 *Mr. Johnson. Okay, thank you.

2183 *Mr. Doyle. The gentleman yields back.

2184 *Mr. Johnson. I yield back, Mr. Chairman.

2185 *Mr. Doyle. The chair recognizes Mr. Soto for five
2186 minutes.

2187 *Mr. Soto. Thank you, Mr. Chair.

2188 Lies about the vaccines, lies about the 2020 election,
2189 lies about the January 6th insurrection all proliferate on
2190 social media to this day. It seems like, as we are working
2191 on key reforms like protecting civil rights, accountability
2192 for social media companies, protecting our kids, the main
2193 opposition by Republicans today, the talking point of the
2194 day, is they want a license to lie, the right to lie without
2195 consequence, even though deliberate lies are not free speech
2196 under New York Times v. Sullivan, according to our Supreme
2197 Court.

2198 What was scenario number one? Tom Cotton, Senator
2199 Cotton, referring to his Wuhan lab theory. He literally
2200 said, "We don't have evidence that this disease originated
2201 there'" to the New York Times, yet radical right-wing media
2202 then goes on to say the virus is part of China's biowarfare
2203 program. That is a terrible example to use.

2204 And then, after President Trump was impeached for

2205 collusion with Ukraine, you want to talk about a Hunter Biden
2206 laptop. Really?

2207 I am deeply concerned about how these things are already
2208 spreading in Spanish language media, as well. I got to speak
2209 to Mr. Zuckerberg in March about that, and he said there is
2210 too much misinformation across all of these media. He
2211 mentioned deterministic products like WhatsApp, and then he
2212 also said, "There were certainly some of this content on
2213 Facebook. And it is our responsibility to make sure that we
2214 are building effective systems that can reduce the spread of
2215 that. I think a lot of those systems performed well during
2216 this election cycle, but it is an iterative process, and
2217 there are always going to be new things that we will need to
2218 do to keep up with the different threats we face."

2219 Then I asked him to commit to boosting Spanish language
2220 moderators and systems on Facebook, especially during
2221 election season, to prevent this from happening again.

2222 Ms. Haugen, you left Facebook about two months after
2223 that hearing, in May. And has there been significant updates
2224 since that hearing on protecting Spanish misinformation?

2225 In short, has Mark Zuckerberg kept his word?

2226 *Ms. Haugen. I do not know the progress of the company
2227 in -- since I left. I do know, before I left, there was a
2228 significant asymmetry in the investment in safety systems.

2229 We live in a very linguistically diverse country, and

2230 yet Facebook has overwhelmingly -- 87 percent of its budget
2231 for misinformation is spent exclusively on English. All the
2232 rest of the world falls into the remaining 13 percent.

2233 When we live in a linguistically diverse society, where
2234 there aren't safety systems for non-English speakers, we open
2235 up the doors to dividing our country, and being pulled apart
2236 because the most extreme content is gaining the most
2237 distribution for those populations.

2238 *Mr. Soto. And you had mentioned specifically in other
2239 hearings about Ethiopia, and the concern with there. Can you
2240 go into that a little more?

2241 *Ms. Haugen. We are seeing a trend in many countries
2242 around the world, where parties are arising based on implying
2243 that certain populations within their societies are subhuman,
2244 right? One of the warning signs for ethnic violence is when
2245 leaders begin to refer to a minority as things like insects
2246 or rodents, right, dehumanizing them.

2247 At the same time, because Facebook's algorithms give the
2248 most reach to the most extreme content, Facebook ends up
2249 fanning the flames of this extremism around the world. And
2250 in the case of Ethiopia and Myanmar, that has resulted in
2251 people dying.

2252 *Mr. Soto. Thank you, Ms. Haugen.

2253 Mr. Robinson, we also see a lot of lies and
2254 misappropriation related to the vaccines. How has

2255 misinformation impacted communities of color taking the
2256 COVID-19 vaccine?

2257 *Mr. Robinson. Well, because of the ways in which
2258 Facebook is not transparent about their algorithms,
2259 transparent about how ads can be deployed, we actually don't
2260 have a full understanding of what we are dealing with
2261 because, you know, we are dealing with, you know, deep levels
2262 of deceptive and manipulative content, sort of content that
2263 gets to travel, and travels -- can travel far within subsets
2264 of communities, but without any clarity of what is happening
2265 until it is sometimes far too late, until you can't actually
2266 deal with it.

2267 The ways in which money can be put behind those for paid
2268 advertisement to sell people things that are not approved,
2269 that haven't been tested -- in opening statements we heard
2270 about drugs being sold online, and being marketed through
2271 algorithms, and that is exactly what we are seeing when it
2272 comes to Black communities, because --

2273 *Mr. Soto. And Mr. Rashad --

2274 *Mr. Robinson. Yes.

2275 *Mr. Soto. Mr. Robinson, sorry, my time is limited.
2276 Would you say misinformation reduces vaccination rates among
2277 COVID among communities of color with --

2278 *Mr. Robinson. It can both reduce vaccination rates and
2279 increase people going down rabbit holes of using all sorts of

2280 untested drugs.

2281 *Mr. Soto. Thank you. My time has expired

2282 *Mr. Doyle. The gentleman yields back. The chair now
2283 recognizes Mr. Long for five minutes.

2284 *Mr. Long. Thank you, Mr. Chairman, and thank you all
2285 for being here today.

2286 Ms. Haugen, the third pillar of the Big Tech
2287 accountability platform is addressing Big Tech's relationship
2288 with China. Much of the information you brought forward
2289 discusses the challenges associated with Facebook's business
2290 model, and how it chooses content that users see on their
2291 platform, which leads to many of the harms that the platform
2292 causes today.

2293 We are looking at this issue all across Big Tech, not
2294 just on Facebook. One of the platforms we are paying close
2295 attention to is, you know, is TikTok. Reports suggest that
2296 TikTok's parent company, ByteDance, coordinates with the
2297 Chinese Communist Party to facilitate abuses against Uyghur
2298 Muslims, and pressure United States-based employees to censor
2299 videos that the Chinese Communist Party finds culturally
2300 problematic or critical of the Chinese Communist Party.

2301 How does TikTok's platform business model make it ripe
2302 for being censored by China?

2303 *Ms. Haugen. That is a wonderful question. So I often
2304 get asked questions about the difference between personal

2305 social media, which is what Facebook is -- you know, you are
2306 connecting with your family and friends -- and what I call
2307 broadcast social media, where people create in order to get
2308 reach.

2309 Tiktok is specifically designed with no contract between
2310 the viewer and the content they receive. You know, you get
2311 shown things, you don't know exactly why you got shown them.
2312 And the way Facebook -- or TikTok works is they push people
2313 towards a very limited number of pieces of content. You can
2314 probably run 50 percent of everything that is viewed every
2315 day with a few thousand pieces of content per day. That
2316 system was designed that way so that you could censor it.
2317 Like, when it was in China, they were intentionally set up so
2318 that humans can look at that high-distribution content and
2319 choose what goes forward or not. Tiktok is designed to be
2320 censored.

2321 *Mr. Long. Okay, thank you.

2322 And a question for you, Ms. Frederick. Your testimony
2323 makes clear that holding Big Tech accountable means
2324 increasing transparency into their practices. You also have
2325 a background in national security. We don't know how TikTok
2326 monitors its platforms, or censors its content. They could
2327 easily be doing this -- be doing the bidding of the Chinese
2328 Communist Party, and we wouldn't know anything about it.

2329 How do you -- or do you -- excuse me, do you have

2330 recommendations on how we can increase Big Tech's
2331 transparency?

2332 For example, how do we know if the content viewed by
2333 Americans on TikTok isn't spreading Communist propaganda?

2334 *Ms. Frederick. I would say incentivize transparency.
2335 Certain companies, of their own volition right now, they give
2336 quarterly reports on how they interact with law enforcement,
2337 you know, how they employ their community standards, but
2338 other tech companies are not doing this. So there has to be
2339 some teeth when you incentivize that transparency among tech
2340 companies.

2341 And when it comes to TikTok in particular, as we said,
2342 the parent company headquartered in Beijing, they -- you have
2343 to assume that they are beholden to the CCP in this instance.
2344 The governance atmosphere of China -- the 2017 cybersecurity
2345 law, the national security laws -- basically say that
2346 whatever private companies do, whatever data they ingest,
2347 however they interact, all of it is subject to the CCP when
2348 it comes knocking.

2349 So, in my estimation, I don't believe any American right
2350 now should be on TikTok, and there are social contagion
2351 elements there, as well. The algorithm, their secret sauce,
2352 it is -- crazily wants user engagement. And 9 to 11 year-
2353 olds' parents were surveyed, and of 9 to 11-year-old
2354 Americans, these parents said 30 percent of them are on

2355 TikTok. This is more than Instagram. This is more than
2356 Facebook. This is more than Snap.

2357 So when we think about the formation of our young minds
2358 in this country, we have to understand that ByteDance, that a
2359 Beijing-based company, has their hooks in our children, and
2360 we need to act accordingly.

2361 *Mr. Long. So you say that the parents are saying that
2362 30 percent of their children are on TikTok?

2363 *Ms. Frederick. Thirty percent of parents say that
2364 their children are on TikTok -- 9 to 11-year-olds, in
2365 particular. So pre-teens.

2366 *Mr. Long. I would say that there are probably another
2367 30 percent that don't know what their kids are looking at. I
2368 mean, I think it is a lot higher number than 30, in my
2369 opinion.

2370 *Ms. Haugen. Tiktok's hyper amplification algorithms
2371 also make it even more addictive than TikTok, because they
2372 can choose the absolute purest addictive content, and spread
2373 it to the most audience. So I agree with her, this is a very
2374 dangerous thing, and it is affecting very young children.

2375 *Mr. Long. Okay. Mr. Chairman, thank you for holding
2376 this hearing today, and thank you all for your participation
2377 here today. I really, really appreciate it, because it is a
2378 very, very serious subject, as we all know.

2379 And Mr. Chairman, I yield back.

2380 *Mr. Doyle. The gentleman yields back. The chair
2381 recognizes Mr. O'Halleran for five minutes.

2382 *Mr. O'Halleran. Thank you, Chairman Doyle. I -- you
2383 know, there is no doubt that the -- about the positive and
2384 negative impacts of the technology platforms have in our
2385 society today. We have been talking about it all day long.
2386 As a father and grandfather, and like many Americans, I was
2387 outraged and am outraged to read about the inner workings of
2388 Facebook brought to light by Ms. Haugen.

2389 Facebook is recklessness, disregard for the well-being
2390 of children and teenagers, especially given their internal
2391 research. This is completely unacceptable. Instead of using
2392 Facebook and Instagram to create positive and social
2393 experience for minors, Facebook is exploiting our children
2394 and grandchildren for clicks and ad revenue.

2395 This is a particular problem for teenage girls.
2396 Facebook's own internal research found that using Instagram
2397 made teenage girls feel worse about themselves, leading to
2398 depression, eating disorders, and thoughts of suicide and,
2399 yes, even death.

2400 I don't know how they can come up with these decisions
2401 that they have come up with. I am a former homicide
2402 investigator, as well as a father and grandfather. I have
2403 seen a lot of suicide. I have witnessed a lot of death in
2404 our country. And I don't know how somebody can make these

2405 decisions, knowing the information they knew, and the impact
2406 it was going to have on the families and children within our
2407 society today.

2408 Facebook thinks it is okay. I think it -- this is,
2409 again, an outrage. This is clear evidence that something
2410 needs to change. We need transparency for companies like
2411 Facebook. We need to know what they are showing our
2412 children, and why, and to identify how these algorithms come
2413 together, and what impact they will have on the rest of our
2414 society.

2415 We can't have Facebook and their algorithms taking
2416 advantage of our children. Our children and families are
2417 more than just out there for corporate greed. Tech
2418 corporations also have a moral responsibility to children and
2419 families in our country, in general, and the rest of the
2420 world.

2421 Ms. Haugen, can you tell us more about how Instagram
2422 uses demographics and a user's search history to serve up
2423 content in ads, even if the content and ads are harmful to
2424 the user?

2425 *Ms. Haugen. Facebook systems are designed for scale.
2426 One of the things that has been seen over and over again --
2427 in my Senate hearing they showed explicit examples of this --
2428 Facebook does vet ads before they are distributed, but they
2429 do it very casually. They don't do it rigorously enough.

2430 And, as a result, in the Senate hearing they demonstrated
2431 that you can send ads for drug paraphernalia to children, to
2432 13-year-olds, if you want to. There is a lack of
2433 accountability when it comes to ads, and a lack of detail.

2434 The second question is around things like search. Like,
2435 how do those interests then percolate into spirals, like down
2436 rabbit holes?

2437 When you engage with any content on Instagram, it --
2438 Facebook learns little bits of data about you. They learn
2439 what kinds of content you might like, and then they try to
2440 show you more. But they don't show you random content. They
2441 show you the content most likely to provoke a reaction for
2442 you. And Facebook has demonstrated that, in the case of
2443 things like teenagers, you can go from a search query like
2444 healthy eating to anorexia content within less than two
2445 weeks, just by engaging with the content that you are given
2446 by Facebook.

2447 *Mr. O'Halleran. Thank you. Ms. Haugen, Facebook had
2448 this data that showed how harmful Instagram is to teenage
2449 users. Did Facebook executives really ignore these findings,
2450 and make no meaningful changes?

2451 Did they really decide that their profits were more
2452 important than the well-being of our kids?

2453 And I am trying to understand that -- who works at
2454 Facebook that makes these type of decisions, and why they

2455 make them for -- when they know that they are going to impact
2456 -- have a negative impact, especially on our children and
2457 this society.

2458 *Ms. Haugen. I think there is two core problems that
2459 lead to this situation.

2460 The first is that Facebook has an unflagging faith in
2461 the idea that creating connections is more valuable than
2462 anything else. Bosworth, who is the -- I believe -- now the
2463 CTO of Facebook --

2464 *Mr. O'Halleran. That is a -- excuse me, that is a
2465 faith of greed. That is not a faith of moral responsibility.

2466 *Ms. Haugen. I don't want to attribute intentions,
2467 because they believe that connection is so magical that it is
2468 more valuable than, say, kids killing themselves.

2469 *Mr. O'Halleran. Okay.

2470 *Ms. Haugen. But he is quoted. There was a piece that
2471 was leaked a couple of weeks ago where, in it, he says, "It
2472 doesn't matter if people die. We are going to advance human
2473 connection."

2474 The second question is how can these decisions be made
2475 over and over again?

2476 Facebook has a diffuse responsibility. Like, when
2477 Antigone Davis was -- appeared before the Senate, she
2478 couldn't name who was responsible for launching Instagram
2479 Kids, or who would make that decision, because Facebook's

2480 organizational structure has no one who is responsible for
2481 anything. They always say, "This committee made the
2482 decision.'" We need to require them to put names on
2483 decisions, because then someone would take a pause and say,
2484 "Do we -- do I really want my name on this thing that might
2485 hurt someone?'"

2486 *Mr. O'Halleran. Thank you very much, and I yield.

2487 *Mr. Doyle. The gentleman yields back. The chair now
2488 recognizes Mr. Walberg for five minutes.

2489 *Mr. Walberg. Thank you, Chairman Doyle, and thanks for
2490 having this hearing.

2491 And to our panel, thank you for being here.

2492 Ms. Haugen, you state in your testimony that -- and I
2493 quote -- "Facebook became a \$1 trillion company by paying for
2494 its profits with our safety, including the safety of our
2495 children, and it is unacceptable.'" I agree wholeheartedly,
2496 and would go even further to say that it is not only
2497 unacceptable, it is morally and ethically wrong.

2498 In the March hearing and others, we heard Big Tech
2499 companies constantly lie to us, and say that they are
2500 enhancing safety protections when, in reality, what they are
2501 doing is increasing censorship for more monetary gains. And
2502 it is a tragedy that half of this country, including many
2503 friends and family of mine who feel that they need to use
2504 these platforms -- and they are amazing, I have a love/hate

2505 relationship for the platforms, I love them and I hate them.
2506 It is amazing, what they can do. But when a family member of
2507 mine has to stay off of content areas because of the
2508 potential of not being able to use Facebook for his business,
2509 that is concerning.

2510 I would also state very clearly that, while I love
2511 everybody on this committee and in Congress, good friends and
2512 colleagues, I don't want any of you censoring me. I don't
2513 trust you to do it. The only one I trust to censor is me
2514 doing the censoring. And you shouldn't trust that.

2515 So the issue here is not so much with adults; I don't
2516 want to be treated as a child. I want to be accountable for
2517 what I believe, what I read, and what I accept. And so that
2518 is an adult issue. But kids, it is a different story. As a
2519 parent of now-grown three kids, my wife and I did creative
2520 things to try to keep them from using the TV when we were
2521 gone. But now, with my grandkids, six of them young
2522 children, it seems nearly impossible to keep kids away from
2523 harmful digital content, and that is where I have my major
2524 concerns.

2525 Facebook knows that its platforms cause negative mental
2526 health impacts on young users, and yet they continue to
2527 exploit children for profit, while selling parents a bill of
2528 goods, and selling us a bill of goods. They refuse to
2529 abandon Instagram for Kids, saying they believe building the

2530 app is the right thing to do. They have said that in front
2531 of us.

2532 But it is not just Facebook. Google, TikTok, and
2533 Snapchat have built empires on collecting and selling our
2534 children's data, and have become havens for predators seeking
2535 to exploit and lure vulnerable populations.

2536 As the lead sponsor of the only bipartisan bill in the
2537 House to update the Children's Online Privacy Act, I am very
2538 worried about the harm TikTok poses to our kids, and the
2539 national security threat that its Chinese Communist Party-
2540 backed mothership, ByteDance, poses to our democracy.

2541 Recently, before the Senate Commerce Committee, a TikTok
2542 executive was unable to distinguish what American data may
2543 fall into the hands of Mainland China.

2544 Ms. Haugen, I understand you have a background in both
2545 of these realms. Can you please give us a sense of the
2546 threat this entity poses to our society and to our children?

2547 *Ms. Haugen. There have been past scandals in -- even
2548 in the last year or two regarding TikTok, where TikTok banned
2549 all content from disabled users and from homosexual users to
2550 protect them from bullying. When you have a product that can
2551 be so thoroughly controlled, we must accept that, if
2552 ByteDance wants to control what ideas are shown on the
2553 platform, the product is designed so that they can control
2554 those ideas. They can block what they want to block.

2555 There is nowhere near enough transparency in how TikTok
2556 operates, and I worry that it is substantially more addictive
2557 than even Instagram because of its hyper amplification focus.

2558 *Mr. Walberg. Thank you.

2559 Ms. Frederick, it has become abundantly clear that Big
2560 Tech will not enact real changes unless Congress forces them
2561 to. I have great concerns about that. But it is clear they
2562 can lie to us, and they will keep doing that, they have no
2563 intention.

2564 So, Ms. Frederick, I have led a discussion draft that
2565 would carve out Section 230 liability protections for
2566 reasonable, foreseeable cyber bullying of kids under 18,
2567 meaning there would be -- need to be an established pattern
2568 of harmful behavior for this to apply. Do you think this
2569 approach will actually force Big Tech platforms to change
2570 their behaviors? Why or why not?

2571 *Ms. Frederick. So I think there are a couple of
2572 benefits and challenges to something like this. The benefit
2573 is that it would address genuine problems on the platform.
2574 But you run into some issues when it comes to the definition,
2575 so you want to make the definition link to a standard, and as
2576 tight as possible, because we see what definition inflation
2577 looks like.

2578 I was in a room in Orlando, Florida, talking to a bunch
2579 of grandmothers, nobody under probably 60, and I asked them,

2580 given Facebook's rollout of a pilot program on extremism, and
2581 creating that friction between extremists and potential
2582 extremist content -- almost every single one of them raised
2583 their hands, because they got that extremism warning, that
2584 they potentially engaged with extremism, or know an
2585 extremist. That definition inflation is a critical problem.

2586 So I think, if you tighten up that definition, make it
2587 as tight as possible, I think it will go far in redressing
2588 some of these problems that exist on the platform that are
2589 actually genuine.

2590 *Mr. Walberg. Thank you, and I yield back.

2591 *Mr. Doyle. The gentleman yields back. The chair
2592 recognizes Miss Rice for five minutes.

2593 *Miss Rice. Thank you so much, Mr. Chairman. I really
2594 want to thank you for having this hearing.

2595 You know, I can't believe that we are -- I am very happy
2596 that we are here discussing future legislation, but I believe
2597 that the role of congressional inaction when it comes to any
2598 -- social media company-related is astounding, and it is our
2599 greatest national moral failure.

2600 I am not a parent, but I am one of 10 kids, and I can
2601 tell you, if my mother had to police 10 children using
2602 TikTok, and Instagram, and Facebook, I mean, I don't know
2603 what she would have done.

2604 So -- and I am loathe to -- I don't mean to be critical

2605 of anyone's parenting, but one thing that we should listen to
2606 when it comes to all of these social media honcho bigwigs,
2607 none of them let their own children use any of these
2608 platforms. None of them. So why do we?

2609 I really hope -- and I am grateful for all of the
2610 witnesses here today. I really hope that we can come up with
2611 legislation that will, once and for all, send a message to
2612 these social media platforms that have taken over every
2613 aspect of our life, not just here in America, but across the
2614 planet.

2615 And finally, to put some bite in the law. I spent nine
2616 years as the elected DA in my home county before I came to
2617 Congress, and I was in a unique position to understand where
2618 the law failed to address antisocial behavior. We know now,
2619 right? And then I would go to Albany, and say, "Okay, we
2620 need to get this law to protect this, to do that."

2621 And I understand that it takes a while to do that kind
2622 of thing, to come to a consensus. But I am hearing
2623 overwhelmingly from my colleagues on both sides of the aisle
2624 today that we all understand the urgency to do something in
2625 this instance.

2626 So, Mr. Steyer, I would like to ask -- to start with
2627 you. You know, it was The Wall Street Journal that published
2628 an article -- and I think, Mr. Chairman, you might have made
2629 reference to this article that was published in September --

2630 that was titled, "Facebook Knows Instagram is Toxic for Teen
2631 Girls, Company Documents Show.'" We have talked a lot about
2632 this today. But it was really disturbing to learn that --
2633 and to read internal communications from Facebook employees
2634 and managers that show that they were fully aware of how
2635 their algorithms harmed young users, but that they continued
2636 to curate content in that manner, anyway.

2637 Mr. Steyer, can you please maybe explain a little deeper
2638 why teen girls are particularly vulnerable to this cycle of
2639 emotional and/or psychological manipulation online?

2640 I don't think it is -- I think it is -- I don't think it
2641 is fair to talk about, you know, teenage girls in kind of
2642 isolation, when there are so many different groups who are
2643 impacted negatively by these social media companies and their
2644 algorithms. But it is important that we help educate young
2645 girls to tell them the truth about what information is
2646 beating them in the face, and affecting their lives, their
2647 very lives.

2648 So, if you could just -- Mr. Steyer, expound a little
2649 bit more on that.

2650 *Mr. Steyer. Sure.

2651 *Miss Rice. Because it is important that children, the
2652 actual users who are the victims here -- and they are victims
2653 -- understand.

2654 *Mr. Steyer. You are absolutely right, Congresswoman,

2655 and you are absolutely right, too, first of all, the reason
2656 it is -- Instagram is such a powerful platform is it is
2657 comparative. So kids and teens constantly compare themselves
2658 to each other. It is the essence of their self-esteem. It
2659 is the essence of how they grow up. It is -- we all
2660 understand this, because we all were kids and teens at one
2661 point. So it is why the platform is so powerful.

2662 I think the second point is you are absolutely right
2663 that this has to be a bipartisan issue. And, quite frankly,
2664 I would like to say to this committee you have talked about
2665 this for years, but you haven't done anything, right? There
2666 -- show me a piece of legislation that you passed.

2667 We had to pass the privacy law in California, because
2668 Congress could not, on a bipartisan basis, come together and
2669 pass a privacy law for the country. And I would urge you to
2670 think about that as you -- and put aside some of the partisan
2671 rhetoric that occasionally has seeped in today, and focus on
2672 the fact that all of us care about children and teens, and
2673 that there are major reforms to 230 that would change that.

2674 Remember, freedom of speech is not freedom of reach.
2675 And so it is the amplification and the algorithms that are
2676 critical. So transparency, as a number of you have mentioned
2677 on both sides of the aisle, it is critical.

2678 And the other thing I want to say to your very good
2679 question, Congresswoman Rice, is that 230 reform is going to

2680 be very important for protecting kids and teens on platforms
2681 like Instagram, and holding them accountable and liable. But
2682 you also, as a committee, have to do privacy, antitrust, and
2683 design reform. So in a comprehensive way, this committee, in
2684 a bipartisan fashion, could fundamentally change the reality
2685 for kids -- society. And I really hope you will do that,
2686 because there has been a lot of talk, but until there is
2687 legislation, the companies that we are referring to are going
2688 to sit there and do exactly what they are still doing.

2689 So thank you very much for the question, and thank you
2690 all for a bipartisan approach to this issue.

2691 *Miss Rice. Mr. Steyer, thank you so much, and thank
2692 you to all the witnesses, and also thank you, too, Mr. Chair.
2693 I yield back.

2694 *Mr. Doyle. The gentlelady yields back.

2695 Mr. Duncan, welcome. You are recognized for five
2696 minutes.

2697 *Mr. Duncan. Thank you, Mr. Chairman. And, you know,
2698 we have had the opportunity to discuss these issues with the
2699 heads of Facebook, Twitter, and Google in the past. And I
2700 have asked those CEOs in this hearing room, "Do you believe
2701 you are the arbiters of absolute truth?"

2702 I was sitting here, listening to the hearing, and
2703 thinking about the hearing, even before I came in today, and
2704 I kept coming back to this: 1984. The words in this book

2705 that George Orwell wrote ring so true when we talk about
2706 where we are today with Big Tech, and all the things that
2707 have been discussed here, not just 230 protections. Some
2708 quotes from that book: "We know that no one ever seizes
2709 power with the intention of relinquishing it. Who controls
2710 the past controls the future, who controls the present
2711 controls the past. Do you see that the whole aim of Newspeak
2712 is to narrow the range of thought?" "Narrow the range of
2713 thought. "In the end, we shall make thought crime literally
2714 impossible, because there will be no words in which to
2715 express it."

2716 We have seen these arbiters of truth, at least in their
2717 minds, with Big Tech, actually scrub words that can be used
2718 on their platforms. I still think that the question before
2719 us is social media platforms need to check themselves and
2720 understand they are not gods -- little g -- they are not
2721 arbiters of truth.

2722 For the past two years we have seen an unprecedented
2723 onslaught from Big Brother Tech on conservative thought. It
2724 is interesting, Mr. Chairman. We don't see liberal thought
2725 suppressed by Big Tech platforms, because Big Brother Tech
2726 believes they should be the arbiters of truth, and they hate
2727 conservatives, so they silence us.

2728 President Donald J. Trump, using the @DonaldTrump --
2729 @DonaldJTrump handle, was the single most effective and most

2730 successful social media user and influencer ever. Twitter
2731 didn't like his politics so much, so they de-platformed him.

2732 You know, I think about this book. A thing called a
2733 memory hole is a small chute leading to a large incinerator,
2734 and anything that needed to be wiped from the public record
2735 was sent in the memory hole. Donald Trump's Twitter handle
2736 was sent in the memory hole, tried to be wiped. They wanted
2737 to make him an un-person, someone whose existence had been
2738 excised from the public and private memory.

2739 Legislation the Democrats are bringing forward is in
2740 that same spirit. We know what is best for you, and if you
2741 disagree, then shut up.

2742 You would allow yourselves to define harm. And
2743 conservative thought is harmful to the nanny state.

2744 You would allow yourselves to define hurtful, and
2745 conservative thought is famously hurtful to the nanny state.
2746 As our friend, Ben Shapiro, said, "Facts don't care about
2747 your feelings."

2748 You would allow yourselves to define extremism, and then
2749 label anyone who opposes you as extremist. That is
2750 doublethink. Doublethink in 1984, the act of simultaneously
2751 accepting two mutual contradictory beliefs is correct.

2752 These are the tactics of the old Soviet Union, the
2753 Communists there: all dissent must be silenced. And I think
2754 we have seen Big Tech try to silence those they didn't agree

2755 with, because they -- blame it on an algorithm or whatever,
2756 but, truth be known, it has been exposed that these efforts
2757 were consent -- consciously put forward. It wasn't just some
2758 algorithm running by AI.

2759 You are holding this hearing in that spirit today, the
2760 same Soviet spirit in Build Back Better that burdens
2761 taxpayers trillions of dollars in new debt, weakens our
2762 currency with inflation, harms our people. Same spirit. You
2763 come today with the left wing government's alliance, and left
2764 wing Big Tech to silence conservatives like you silenced
2765 Donald Trump.

2766 Thinkpol from 1984. Thinkpol, it is a Newspeak word to
2767 describe the secret police of Oceania, who are responsible for
2768 the detection, prosecution, and elimination of unspoken
2769 beliefs and doubts that contradict the party -- I would say,
2770 contradict the liberal thought, in this arena.

2771 I want to ask one question real quick, because I think
2772 you all get the gist of what I am trying to say.

2773 Ms. Frederick, in your testimony you talk about the
2774 pitfall of having Congress try to define harm. One of the
2775 proposals we are considering today removes Section 230
2776 protection from companies that use algorithms to promote
2777 harm. What are some of the consequences of taking that
2778 approach?

2779 *Ms. Frederick. So I think it is absolutely worth

2780 noting that, when Trump was banned from 17 different
2781 platforms in 2 weeks, the ACLU spoke out against the ban. No
2782 friends of conservatives, right? Angela Merkel spoke out
2783 against the ban --

2784 *Mr. Duncan. Where are they today, though, is what I
2785 am --

2786 *Ms. Frederick. Russian Navalny spoke out against the
2787 ban, Russian dissident Alexander Navalny. And Lopez Obrador,
2788 as well. So everybody recognizes the threat of censorship.
2789 It is not just Republicans, it is not just conservatives. It
2790 is independently-minded people who think that our health
2791 depends on the genuine, again, interrogation of ideas. Tech
2792 companies are not allowing that to happen. We need to strip
2793 them from immunity when they censor based on political
2794 viewpoints.

2795 *Mr. Duncan. My time is up, Mr. Chairman. Censorship
2796 is bad. We need to keep hollering that from the rooftop. I
2797 yield back.

2798 *Mr. Doyle. The gentleman's time has expired. The
2799 chair now recognizes Ms. Eshoo for five minutes.

2800 *Ms. Eshoo. Thank you, Mr. Chairman. Let me start by
2801 thanking Ms. Haugen for your courage in coming forward. What
2802 you have done is a great act of, I believe, public service.

2803 One of the documents you have disclosed relates to
2804 Carol's Journey. It is a project that Facebook researchers

2805 set up to observe the platform's recommendation --

2806 [Audio malfunction.]

2807 *Ms. Eshoo. And I only have five minutes, so maybe you
2808 can do this in a minute and a quarter, or whatever, but can
2809 you briefly tell us what the research found, as it relates to
2810 Facebook's algorithms leading users down rabbit holes of
2811 extremism?

2812 *Ms. Haugen. Facebook has found, over and over again,
2813 on the right, on the left, with children that you can take a
2814 blank account -- so there is no friends, no interests -- and
2815 you can follow centrist interests. You can follow Donald
2816 Trump and Melania, you can follow Fox News, or you can
2817 follow, you know, Hillary and MSNBC. And just by clicking on
2818 the content Facebook suggests to you, Facebook will get more
2819 and more and more extreme.

2820 So on the left you go to -- within three weeks to Let's
2821 Kill Republicans. It is crazy. On the right, within a
2822 couple of days you get to QAnon. Within a couple of weeks,
2823 you get to white genocide. There isn't two tangoing, as
2824 Facebook claims. There is only Facebook system amplifying
2825 and amplifying and amplifying. And this happens because that
2826 content is the content you are most likely to engage with,
2827 even though, when you -- after your survey you say you don't
2828 like it.

2829 *Ms. Eshoo. Thank you very much.

2830 To Mr. Steyer, Jim, it is wonderful to see you again.
2831 Thank you for testifying today. Your testimony mentions how
2832 addictive design features are like Snap streaks, how harmful
2833 that is. Can you tell us more about how these addictive
2834 designs prey on children, and teens in particular?

2835 *Mr. Steyer. Absolutely. Good to see you,
2836 Congresswoman Eshoo.

2837 The -- it is very clear that platforms like Facebook and
2838 Instagram -- but, as you just mentioned, Snapchat, YouTube
2839 and others -- have literally designed features like the auto
2840 replay that we are all familiar with: 3, 2, 1, you watch the
2841 next episode. They are designed to keep you there.

2842 As I mentioned in my opening remarks, this is an arms
2843 race for attention. Attention engagement, as Ms. Haugen has
2844 made clear to the public, is the basis of the business model
2845 for a number of the social media platforms. And what that
2846 does with younger minds, particularly children and teens,
2847 less developed minds, is constantly get you to come back,
2848 because you are being urged in very, very creative and
2849 strategic ways by very sophisticated engineers to stay on
2850 that platform, because they make more money. So it is the
2851 core of the business model that is at stake here.

2852 And the point that has been made repeatedly -- and it
2853 should be part of the legislation that this committee
2854 addresses -- is you have to have transparency about the

2855 design and the algorithms. Those are separate issues.

2856 I believe this committee is going to have a separate
2857 hearing next week that is going to go to design issues,
2858 Congresswoman Eshoo. They are very important. Because, at
2859 the end of the day, if we are able to transparently see how
2860 Facebook builds its platform and nudges you, particularly --
2861 you, and all of us, but mostly kids and teens -- to stay on
2862 their platform, that will change everything.

2863 It will also change everything if their liability for
2864 that behavior is removed, and they are held accountable.

2865 So you are on to something big. It is why I said
2866 earlier this committee should take reforms of 230 very
2867 seriously, and move forward on the legislation, but also look
2868 at it in a comprehensive way, and include privacy by design,
2869 and include all -- and the design issues you mentioned. That
2870 is what will protect our kids going forward, and will make
2871 this the first bipartisan effort in Congress in years to
2872 protect children.

2873 *Ms. Eshoo. Thank you very, very much, Jim.

2874 To Mr. Robinson, I think we are all moved by the
2875 examples of civil rights harms that you cited in your written
2876 testimony. Can you elaborate on how these are fundamentally
2877 issues of product design and -- model, and not issues of user
2878 generated content?

2879 *Mr. Robinson. Well, there is all sorts of things that

2880 are connected to user-generated content, but the fact of the
2881 matter is this is about what gets amplified, what gets moved
2882 on the content.

2883 Another thing that I do think is important is that
2884 companies that don't hire Black people can't be trusted to
2885 create policies to protect Black communities. And these
2886 companies have, time and time again, have made a choice not
2887 to hire Black people. And so the Russians knew more about
2888 Black people during the 2016 election than the people at
2889 Facebook. And so the disinformation that was allowed to
2890 travel on their platform was a direct result of choices that
2891 they have made.

2892 And so the only other thing I would like to add is that
2893 your bill, in terms of this comprehensive sort of set of
2894 things that we need, your bill, the Online Privacy Act, which
2895 creates a data privacy -- a data protection agency, is also
2896 incredibly important, because we need infrastructure in our
2897 government to actually be able to meet these 21st century
2898 needs.

2899 *Ms. Eshoo. Thank you very much.

2900 I yield back, Mr. Chairman.

2901 *Mr. Doyle. The gentlelady yields back. The chair now
2902 recognizes Mr. Curtis for five minutes.

2903 *Mr. Curtis. Thank you, Mr. Chair and Mr. Ranking
2904 Member, and our witnesses. It is very interesting to be with

2905 you today.

2906 I think we understand censorship. It is an easy
2907 concept: the suppression of speech, public communication, or
2908 other information. When we think of censorship, we generally
2909 refer to limiting of objectionable, harmful, obscene, or
2910 dangerous information. Censorship can be dangerous, because
2911 its intent is to control thought.

2912 I am not sure we understand the other side of this as
2913 well. Now, we have talked about it, and I am not going to
2914 give you any new ideas, but I am going to talk about it in a
2915 slightly different way today, and that is the attempt to
2916 control thought by presenting or feeding objectionable,
2917 harmful, obscene, or dangerous information.

2918 As I was preparing for this, I could not think of a word
2919 of the opposite of censorship, right? That is what I was
2920 trying to come up with. And it dawned on me there are words:
2921 brainwashing, propaganda. We have done this in war. We have
2922 dropped pamphlets across enemy lines to influence people's
2923 thoughts and behaviors. We have had radio stations
2924 infiltrating behind enemy lines. That is what this is, isn't
2925 it?

2926 I would like to look at this through a slightly
2927 different lens, which is the algorithm transparency that we
2928 have talked about, and customers having the ability to tailor
2929 their social media experiences based on what they want, and

2930 not what the social media giant wants. And my problem is the
2931 content presented to people without their consent with an
2932 accompanying agenda. That is the biggest problem.

2933 Ms. Frederick, can you define in simple terms that
2934 everybody can understand back home what an algorithm is, and
2935 how social media uses it?

2936 *Ms. Frederick. So algorithms are codes built by
2937 programmers designed by programmers that, basically, take
2938 information -- so the input, whatever -- however these are
2939 designed, whatever data is labeled, et cetera -- and produce
2940 an output that has an effect. So input to output:
2941 algorithm. Built by people. I think that is a critical
2942 element, is they are built by people. Companies can't hide
2943 behind the algorithms. They are not just automatons that go
2944 forward. They are built by people.

2945 *Mr. Curtis. I paid for a substantial amount of a Ph.D.
2946 of my son, who is a data scientist. He works -- has worked
2947 for a grocery store chain, in predicting a rush on milk and
2948 eggs, and things like that.

2949 Is it possible, when we talk about transparency, do we
2950 really have the ability to give the average layperson a view
2951 into these algorithms in a way that they really can
2952 understand what they are?

2953 *Ms. Frederick. I think to some degree. And the
2954 previous witness was just talking about privacy by design,

2955 privacy preserving technology. So there are ways to actually
2956 design these programs, to design these machines, that are
2957 imbued, again, with values like privacy. So there is a way
2958 to manipulate them, and people should know if they are being
2959 manipulated.

2960 *Mr. Curtis. I think what you are saying, if I
2961 understand it right -- you tell me if I am wrong -- is that
2962 these algorithms could be created to manipulate, in a harmful
2963 way, the way people think.

2964 *Ms. Frederick. It has happened before.

2965 *Mr. Curtis. Could you -- are there any examples that
2966 come to mind, just quickly, that you could share that we
2967 would all understand?

2968 *Ms. Frederick. I think we are all familiar with the
2969 Facebook Files, and the documents that have been released
2970 that talk about the design of these algorithms and how they
2971 were manipulated, starting in 2018, to increase engagement.

2972 *Mr. Curtis. Could an algorithm be created to influence
2973 the way a person votes?

2974 *Ms. Frederick. It could contribute to their cognitive
2975 processes, and the decisions that they eventually make in the
2976 voting booth.

2977 *Mr. Curtis. Should somebody have protection from the
2978 law who creates an algorithm to determine how somebody votes?

2979 [No response.]

2980 *Mr. Curtis. And I am not sure I know the answer to
2981 that, myself. I think that is why we are here today, right?
2982 Like, but that is what is happening, isn't it?

2983 *Ms. Frederick. I think in questions that run up
2984 against very serious debates, I think individual liberty and
2985 individual freedom, in general, should always be paramount.

2986 *Mr. Curtis. If there is a bad actor -- not the
2987 companies themselves -- whose intent is to influence how
2988 somebody votes, let's hypothetically say Russia, and a
2989 company facilitates their intent and their agenda, should
2990 they be protected from the law?

2991 *Ms. Frederick. I think you run into a problem of
2992 attribution here, when the strategic intent of these nation
2993 states blend with patriotic netizens, when they blend with
2994 hacktivists, when they blend with people who just want to be
2995 chaos agents in general --

2996 *Mr. Curtis. I have got seven seconds. Let me try to
2997 make a point.

2998 We have a town square, right? People can post things in
2999 this town square. Everybody understands that. I was a
3000 mayor. I could put -- right, we could have that. It is very
3001 complicated if I, as the mayor, decide I am going to take
3002 some things down, and I am going to take some things and
3003 duplicate them, and put them back up. And it is that simple,
3004 right?

3005 I think what we are talking about is where are the
3006 boundaries in this, and how do we find the boundaries?

3007 *Ms. Haugen. Chairman Doyle, may I briefly comment
3008 something?

3009 *Mr. Doyle. Yes, very briefly.

3010 *Ms. Haugen. In 2018, when Facebook made that change,
3011 political parties across Europe, from a variety of different
3012 political indications, said, "We were forced to change our
3013 positions to more extreme things on the left, on the right,
3014 because that is what now got distributed. We saw a
3015 difference in what we could run.''

3016 The idea that our political parties now have the
3017 positions they can take, influenced by Facebook's algorithms
3018 and the changes, that influences the elections because it
3019 controls what we get to even vote on in the ballot box.

3020 *Mr. Doyle. The gentleman's time has expired.

3021 *Mr. Curtis. Mr. Chairman, thank you. I yield back.

3022 *Mr. Doyle. The chair now recognizes Ms. Matsui for
3023 five minutes.

3024 *Ms. Matsui. Thank you very much, Mr. Chairman. And
3025 first of all, I want to thank you for holding this
3026 legislative hearing today.

3027 This is really not the first time that our subcommittee
3028 has met to consider needed updates to Section 230, and it
3029 certainly won't be our last. While our discussion today can

3030 and should be measured in fact-based, we cannot lose sight of
3031 what brings us here today: a crisis exacting an immense
3032 human toll, and undermining our shared democratic values.
3033 The magnitude of this crisis will necessitate a comprehensive
3034 approach that has implications for privacy, antitrust, and,
3035 of course, Section 230 reform.

3036 I introduced the Algorithmic Justice and Online Platform
3037 Transparency Act with Senator Markey to bring needed
3038 transparency to the algorithms employed by online platforms,
3039 and establish clear prohibitions on the most discriminatory
3040 algorithms in use today. The bill has been endorsed by 14 of
3041 the most important public interest groups like the Anti-
3042 Defamation League, Consumer Reports, and two organizations
3043 that are testifying here today with Free Press Action and
3044 Color of Change. I am hopeful my bill will be included on
3045 the agenda for the Consumer Protection Subcommittee hearing
3046 on the 9th.

3047 You know, like many parts of this country, I represent a
3048 region that is suffering from an acute shortage of affordable
3049 housing. That is why it is so alarming for me to see case
3050 after case of discrimination in housing opportunities online.
3051 Recently, the Department of Housing and Urban Development
3052 took action against Facebook over concerns that its targeted
3053 advertising platform violates the Fair Housing Act by
3054 encouraging and enabling and causing unlawful discrimination

3055 by restricting who can view housing ads.

3056 Mr. Robinson, as a simple yes or no to set the stage, in
3057 your experience are the Big Tech algorithms and practices
3058 disproportionately impacting people of color?

3059 *Mr. Robinson. Yes.

3060 *Ms. Matsui. Thank you. I think it is important to
3061 reiterate that, to frame our discussion, my Algorithmic
3062 Justice and Online Platform Transparency Act establishes an
3063 interagency task force composed of a broad group of agencies,
3064 including the Federal Trade Commission and Housing and Urban
3065 Development, to investigate the discriminatory algorithmic
3066 processes online.

3067 Mr. Robinson, when it comes to enforcement, do you
3068 believe including sector-specific expertise, like HUD, where
3069 housing is important, to effectively document and police
3070 instances of discrimination within specific industries?

3071 *Mr. Robinson. Yes.

3072 *Ms. Matsui. Mr. Robinson, are you aware of instances
3073 in which Facebook or other platforms have designed their
3074 products in a manner that allow advertisers or sellers to
3075 discriminate in ways that are inconsistent with this
3076 country's anti-discrimination laws?

3077 *Mr. Robinson. Yes, and I have spoken to them about it
3078 directly.

3079 *Ms. Matsui. Okay, fine. Thank you.

3080 I am very concerned about youth mental health. I have
3081 grandchildren, teenagers, and I am -- I really see the fact
3082 that they are so connected to their social media through
3083 their devices. Now, recent revelations from witnesses here
3084 today -- Ms. Haugen confirmed what many of us already knew to
3085 be true, that social media is harming the mental health of
3086 America's youth, especially pernicious for teen girls, and
3087 that Facebook is aware of the problem. The results of these
3088 internal documents speak for themselves. Teens blame
3089 Instagram for increases in anxiety and depression. Instagram
3090 made body image issues worse for one in three teen girls.

3091 Ms. Haugen, clearly there is a potent mix of psychology
3092 and engineering at play here. Can you describe, or can you
3093 tell me about the backgrounds of the employees that these
3094 companies hire to help them exploit youth psychology with
3095 targeted algorithms?

3096 *Ms. Haugen. Facebook employs researchers who have
3097 Ph.D.'s who may or may not have expertise specifically in
3098 child psychology, and there are specifically advocates who
3099 work with external partners to develop things like the
3100 interventions on self-harm.

3101 The question, though, is how much does that actually
3102 reach people?

3103 When I was there, there was a dashboard for the self-
3104 harm dashboard, which Facebook loves to promote, and it was

3105 only being shown hundreds of times per day. There is a
3106 question of what scale of intervention should Facebook be
3107 doing, and I don't believe Facebook is acting strongly enough
3108 to protect our children.

3109 *Ms. Matsui. Okay, thank you very much, and --

3110 [Audio malfunction.]

3111 *Ms. Matsui. -- very much for what you have done, too.

3112 So I yield back.

3113 *Mr. Doyle. The gentlelady's time expires, she yields
3114 back. Okay, the chair is going to recognize Mr. Welch for
3115 five minutes.

3116 *Mr. Welch. Thank you very much.

3117 I really want to thank all three of you, and Mr. Steyer,
3118 for your testimony. The clarity with which you presented the
3119 dynamic that now exists is overwhelming, and I think shared
3120 on both sides of the aisle.

3121 We have got a business model where amplifying conflict
3122 amplifies profit. And there are two casualties of that
3123 business model: our democracy and our children. And I want
3124 -- I am going to lay out my thoughts, and I want your
3125 response to this.

3126 But in a democracy, it depends ultimately on trust and
3127 norms. And the algorithms that are promoting engagement are
3128 about conflict versus cooperation. They are about blame
3129 versus acceptance. And I see what is happening as a

3130 profoundly threatening development for the capacity of us, as
3131 citizens, to engage with one another, and sort out the
3132 conflicts that are legitimate disputes among us.

3133 And secondly, the horrendous use of a business model
3134 that attacks the self-esteem of our kids. And I don't care
3135 whether those kids come from a family that supported Donald
3136 Trump or a family that voted Joe -- supported Joe Biden. We
3137 all love our kids, and they all have the same challenges when
3138 they are trying to find their identity. And they have a
3139 business model that, essentially, erodes those prospects and
3140 those efforts. That is one business model that we have to
3141 challenge.

3142 My view on this, as I have listened to you, and also
3143 heard the proposals that I am supportive of from my
3144 colleagues, is that we need more than one-off legislation to
3145 address what is a constantly evolving situation. And in the
3146 past, our government, in order to protect the public interest
3147 and the common good, has created agencies, like the
3148 Interstate Commerce Commission, like the Securities and
3149 Exchange Commission, an agency that is funded, that is
3150 staffed with experts, that has the capacity for rulemaking,
3151 and can engage in the investigation, just as an example, of
3152 algorithms.

3153 So my view is that Congress needs to establish a
3154 commission, which I am calling the Digital Markets Act. It

3155 would set up an independent commission with five
3156 commissioners. It would have civil penalty authority. It
3157 would hire technology experts to oversee technology
3158 companies. It would test algorithms and other technology to
3159 ensure that any technology is free from bias, and would not
3160 amplify potentially harmful content. The commission will be
3161 authorized to engage in additional research on an ongoing
3162 basis that is needed for us to have oversight of the
3163 industry.

3164 So this is the approach I think Congress needs to take.
3165 It is not about free speech, by the way, because it is not
3166 about good ideas or bad ideas -- you make a good point, Ms.
3167 Frederick -- and it is not about good people versus bad
3168 people. It is like recognizing that no, Mr. Zuckerberg, you
3169 are not in charge of the community forum, that we have a
3170 democracy that we have to defend. We have children that we
3171 want to protect.

3172 So I am just going to go -- I will ask you, Ms. Haugen,
3173 what is your view about that as an approach to address many
3174 of the problems that you have brought to our attention?

3175 *Ms. Haugen. I think one of the core dynamics that has
3176 brought us to the place that we are at today is that Facebook
3177 knows that no one can see what they are doing. They can
3178 claim they are doing whatever they are doing, and they have
3179 actively gaslit investigators, researchers, academics for

3180 years when they identified real problems.

3181 We need somebody. It can be a commission, it could be a
3182 regulator, but we need someone who has the authority to
3183 demand real data from Facebook, someone who has investigatory
3184 responsibility.

3185 *Mr. Welch. Mr. Robinson?

3186 Thank you.

3187 *Mr. Robinson. We demanded for years Facebook conduct a
3188 civil rights audit. They eventually committed to, in front
3189 of the United States Senate. They went about doing it, and
3190 now we have found out all the places in which they lied and
3191 held back --

3192 *Mr. Welch. And what is your view about my --

3193 *Mr. Robinson. So my --

3194 *Mr. Welch. -- suggestion of an --

3195 *Mr. Robinson. Color of Change --

3196 *Mr. Welch. -- independent commission?

3197 *Mr. Robinson. Color of Change supports the creation of
3198 a data protection agency, and believes that it needs to have
3199 civil rights expertise involved.

3200 *Mr. Welch. And Mr. Steyer, if you are still there?

3201 *Mr. Steyer. Yes, I am here, Congressman Welch.

3202 I think that idea deserves very serious consideration.

3203 As I have said -- and I think other witnesses and

3204 Congresspeople have said -- this deserves a comprehensive

3205 approach. So I think your proposal deserves very serious
3206 consideration, because we have to hold the tech companies
3207 accountable, period, full stop.

3208 *Mr. Welch. Okay, thank you very much. My time is up,
3209 and I am sorry I didn't get to you, Ms. Frederick. I
3210 appreciate it.

3211 *Ms. Frederick. I would have disagreed anyway, sir.

3212 *Mr. Welch. Pardon me?

3213 *Ms. Frederick. I would have disagreed anyway, sir.

3214 *Mr. Welch. That is okay.

3215 *Mr. Doyle. Duly noted. Okay, let's see. The chair is
3216 going to recognize Mr. Schrader for five minutes.

3217 *Mr. Schrader. Thank you, Mr. Chairman, and I
3218 appreciate everyone being here at this hearing. We
3219 definitely have to figure out what to do, and you all have
3220 given us a lot of food for thought.

3221 Ms. Haugen, I want to give you a lot of credit for
3222 stepping up. It is very, very, very difficult to do.
3223 Occasionally, some of us do that here, in this body, and I
3224 share your pain, frankly, in having to do that.

3225 I am deeply disturbed by the -- Facebook has breached
3226 its duty to act responsibly when it, potentially, has stood
3227 to benefit from the misery and suffering of a number of its
3228 users. It is just totally inappropriate. It appears that
3229 Facebook knew that its products were causing harm to the

3230 American people, particularly the mental health of young
3231 people, as we have heard here today. And Facebook has not
3232 responded, as I have listened to the testimony from you all.

3233 This should raise concerns for every member of our
3234 committee. It appears to be that way -- and, indeed, each
3235 and every American. Democracy, public safety, the health of
3236 our families and our children, in particular, are coming at
3237 the cost of profit for these companies.

3238 The power to connect all people around the world could
3239 be great, you know? But, you know, it needs to be checked by
3240 democratic norms, human rights, and the rule of law.

3241 Our part is getting to the solution, at the end of the
3242 day, you know. How do we avoid censorship, to Ms.
3243 Frederick's point, I think, and, at the same time, allow
3244 people to communicate in an honest and open way that does not
3245 advantage one side or the other.

3246 So just to hit a couple of points, Facebook and
3247 companies like it, you know, promise to police themselves.
3248 You guys have talked about that. Ms. Haugen, in your opinion
3249 and firsthand experience, is it particularly naive of us, or
3250 even negligent of us to expect Facebook and other entities to
3251 self-police themselves for our benefit?

3252 *Ms. Haugen. I believe there are two -- at least two
3253 criteria for self-governance.

3254 The first is that Facebook must tell the truth, which

3255 they have not demonstrated. They have not earned our trust
3256 that they would actually surface to us dangers when they
3257 encounter them. The second thing -- and they have actively
3258 denied it, when they have been asked about specific
3259 allegations.

3260 The second criteria is, when they encounter conflicts of
3261 interest between the public good and their own interests, do
3262 they resolve them in a way that would be aligned with the
3263 common good? And they don't.

3264 And so, in a world where they actively lie to us, and
3265 they resolve conflicts on the side of their own profits and
3266 not the common good, we have to have some mechanism. And
3267 that might be a commission or a regulator, but someone has to
3268 be able to get truth out of these companies, because they are
3269 currently lying to us.

3270 *Mr. Schrader. Very good, thank you.

3271 Ms. Frederick, you have hit the nail on the head when it
3272 comes to viewpoint censorship. I mean, the eye of -- it is
3273 in the eye of the beholder, to a large degree. So how do we
3274 deal with that, based on your experience and your extensive
3275 research, and, you know, firsthand history? What is a way to
3276 get at avoiding viewpoint censorship, but, again, getting the
3277 clarity that you all have spoken to on the panel here?

3278 *Ms. Frederick. I think, put simply, you anchor any
3279 sort of legislative reforms to the standard of the First

3280 Amendment. So what the Constitution says, again, these
3281 rights are given to us by God. They were just enshrined, put
3282 on paper for Americans in the Constitution. So you make sure
3283 that any sort of reforms flow from that anchored standard to
3284 the First Amendment.

3285 *Mr. Schrader. Okay. That sounds like it is easier
3286 said than done, though, I will be honest with you.

3287 Ms. Haugen, again, you talked about, I think, in one of
3288 -- your testimony, that they know how to make it safer. So
3289 how should they make it safer?

3290 What, in your opinion, are some of the reforms that you
3291 would suggest, that -- you have alluded to some already.

3292 *Ms. Haugen. We have spent a lot of time today talking
3293 about censorship. One of the things that we forget is that,
3294 when we focus on content, on the language, that doesn't
3295 translate, right? You have to do the solutions place by
3296 place by place, language by language, which doesn't protect
3297 the most vulnerable people in the world. That is places like
3298 what is happening in Ethiopia right now, which has 95
3299 different dialects in their country.

3300 What we need to do is make the platform safer through
3301 product choices. That is things like imagine Alice writes
3302 something, Bob re-shares it, Carol shares it. So now that is
3303 friends of friends. Let's imagine when it got to that point,
3304 when it got beyond friends of friends, you had to copy and

3305 paste it to share it. Have you been censored? I don't think
3306 so. It doesn't involve content. But that action alone
3307 reduces misinformation the same amount as the third-party
3308 fact-checking program. We need solutions like that, friction
3309 that make the platform safe for everyone, even if you don't
3310 speak English. And -- but Facebook doesn't do it, because it
3311 costs them little slivers of profit every time they do it.

3312 *Mr. Schrader. It sounds like a complicated law. It is
3313 going to be complicated to do this, because you are dealing
3314 with how to affect the algorithms in a more positive way
3315 without bias, if -- ostensibly.

3316 And I guess I am out of time, and I yield back, Mr.
3317 Chairman.

3318 *Mr. Doyle. The gentleman yields back. The chair
3319 recognizes Mr. Cardenas for five minutes.

3320 *Mr. Cardenas. Thank you, Mr. Chairman, and also
3321 Ranking Member Latta, for having this very important hearing.
3322 And again, this is not the first time that we are discussing
3323 this issue on behalf of the American people who elected us to
3324 do our job, which is to make sure that they do continue with
3325 their freedoms, yet at the same time the harm that can be
3326 prevented does not come to them.

3327 I would like to first start off by submitting, for the
3328 record, a letter by the National Hispanic Media Coalition in
3329 support of H.R. 5596, Justice Against Malicious Algorithms

3330 Act of 2021.

3331 And also, I would like to say to Ms. Haugen, the
3332 information you provided to the public about Facebook's
3333 internal deliberations and how the company has dealt with or
3334 chosen not to deal with some of the more pressing issues it
3335 faces has been illuminating to all of us. So thank you so
3336 much for you're your brave willingness to come out and speak
3337 the truth.

3338 One issue of critical importance to me is the Spanish
3339 language disinformation that has flooded social media
3340 platforms, including Facebook, but also other social media
3341 sites, as well. One example is the level of the company's
3342 resources dedicated to Spanish language misinformation.

3343 In May, Facebook executives told Congress that we -- and
3344 the -- I quote them -- "We conduct Spanish language content
3345 review 24 hours per day at multiple global sites. Spanish is
3346 one of the most common languages used on our platforms, and
3347 is also one of the highest resourced languages when it comes
3348 to the content review.'"

3349 Yet in February of 2020, the product risk assessment
3350 indicated that "we are not good at detecting misinformation
3351 in Spanish, or lots of other media types.'" And another
3352 internal report warned that Facebook had "no policies to
3353 protect against targeted suppression.'"

3354 Ms. Haugen, in your testimony you note that we should be

3355 concerned about how Facebook's products are used to influence
3356 vulnerable populations. Is it your belief that Facebook has
3357 blatantly lied to Congress and the American people?

3358 *Ms. Haugen. Facebook is very good at giving you data
3359 that just sidesteps the question that you asked. So it is
3360 probably true that Spanish is one of the most resourced
3361 languages at Facebook. But when, overwhelmingly, the
3362 misinformation budget -- so 87 percent goes to English -- it
3363 doesn't matter if Spanish is one of your top-funded languages
3364 beyond that, if you are giving it just, like, tiny slivers of
3365 resources.

3366 I live in a place that is predominantly Spanish-
3367 speaking, and this is a very personal issue for me. Facebook
3368 has never been transparent with any government around the
3369 world on how many third-party fact-checkers speak each
3370 language, how many third-party fact checks are written in
3371 each language or locality. And, as a result, things like
3372 Spanish misinformation are nowhere near as safe as it is for
3373 English.

3374 *Mr. Cardenas. Okay. So, basically, Facebook -- do
3375 they have the resources to do a better job of making sure
3376 that they police that, and actually help reduce the amount of
3377 disinformation and harm that comes to the people in this
3378 country?

3379 *Ms. Haugen. Facebook is on track to make \$45 billion

3380 of profit in the coming year. Of course they have resources
3381 to solve these problems more effectively than they do today.

3382 Facebook likes to come back and say, "We spent \$5
3383 billion last year," or, "we are going to" on safety. The
3384 question is not how much they currently spend, but whether or
3385 not they spend an adequate amount. Currently, they are not
3386 keeping Spanish speakers safe at the level they do for
3387 English speakers.

3388 *Mr. Cardenas. Okay, and --

3389 *Ms. Haugen. And that is not acceptable.

3390 *Mr. Cardenas. And so they do have the resources to do
3391 better, or to do more, and they have the knowledge and the
3392 ability and capability to do so. They choose not to. Is
3393 that the case?

3394 *Ms. Haugen. Yes, they have the financial resources,
3395 they have the technology. They have chosen not to invest in
3396 Spanish. They have chosen not to allocate the moderators or
3397 pay for the journalists. They are not treating Spanish
3398 speakers equally as they do English speakers.

3399 *Mr. Cardenas. Okay, thank you.

3400 Mr. Steyer, given the repeated evidence that Facebook is
3401 unable to moderate content with algorithmic and human
3402 reviewers adequately, can Section 230 reform change the
3403 approach that Facebook and other tech platforms take into
3404 moderation -- moderating content?

3405 *Mr. Steyer. Yes, absolutely. And, in fact, a couple
3406 of the bills that have been referenced here, Congressman
3407 Cardenas, would actually make major progress on that.

3408 In addition, as I said earlier, the privacy by design
3409 issues that will be in -- next week's hearing will cover, and
3410 other measures related to reining in Facebook's --
3411 transparency of algorithms will all work to fundamentally
3412 change what is currently going on.

3413 And just to echo what Ms. Haugen just said, they have
3414 the resources, they have the knowledge. But unless Congress
3415 holds them accountable on a bipartisan basis, it will not
3416 happen. So the ball is really in your court, on a bipartisan
3417 basis.

3418 *Mr. Doyle. The gentleman's time has expired.

3419 *Mr. Cardenas. Thank you very much. My time has
3420 expired. I yield back. Thank you.

3421 *Mr. Doyle. The chair recognizes Mr. Carter for five
3422 minutes.

3423 *Mr. Carter. Thank you, Mr. Chairman, and thank all of
3424 you for being here. We appreciate this. This is extremely
3425 important, as you can well imagine.

3426 I want to start with you, Ms. Frederick, and it is kind
3427 of just a general question. I think you all realize that we
3428 want to keep free speech. I know -- what Democrat,
3429 Republican -- I don't think there is any difference. If you

3430 are an American, that is one of the greatest freedoms that we
3431 have, and we value that freedom, and we all want to keep
3432 that, and it is important.

3433 But I want to ask you, Ms. Frederick, we also want to
3434 ensure that one's free speech is not subject to any kind of
3435 political bias, particularly if it is, supposedly, fact
3436 checkers who are -- have a bias against conservative thought,
3437 or any thought, whether it be conservative or liberal. We
3438 just don't want that bias. And it is such a -- you know,
3439 this is not easy, what we are trying to do here. It is not.
3440 It is tough. It is -- we want free speech, but, holy cow,
3441 something has got to give here.

3442 I just wanted to ask you, why do you think it is
3443 necessary for us to reform Section 230, and to pass laws to
3444 keep Big Tech accountable, rather than just rely on tech
3445 companies to self-regulate?

3446 I will be quite honest with you. This is my seventh
3447 year here, my fourth term, and I have had the opportunity
3448 twice to have the CEO of Facebook, of Twitter, and of Google
3449 before us in a panel. And I have tried to make it as clear
3450 to them as I can. I don't want to do this. You don't want
3451 me to do this. So please clean it up yourself, so I don't
3452 have to do this, because you don't want me to do this. But
3453 it seems to go in one ear and out the other.

3454 So tell me, why do you think this is necessary?

3455 *Ms. Frederick. I think you are correct. I think, thus
3456 far, every tactic that has been tried, it is not working, and
3457 the proof is in the pudding. And we see what this self-
3458 regulation tactic has wrought: toxic practices that
3459 inordinately harm young American women.

3460 You look at, when it comes to TikTok, the one thing that
3461 instances of people coming into hospitals developing actual
3462 tics have in common, according to reporting from the Wall
3463 Street Journal, is that they all follow influencers on TikTok
3464 who have some sort of Tourette's tic. So those toxic
3465 practices, those behaviors, those social issues that they are
3466 exacerbating, plus rampant censorship that you talked about,
3467 right now, as it stands, it is a veritable race to the
3468 bottom.

3469 *Mr. Carter. Ms. Haugen, I am going to ask you the same
3470 question, give you the opportunity to respond, as well. Just
3471 why do you think it is necessary?

3472 Do you think it is necessary to reform Section 230, and,
3473 you know -- because they are not responding. I have tried.
3474 I have done it twice. I have had them before -- the CEOs
3475 before me twice, and it just -- it ain't working. We have
3476 got to do something.

3477 *Ms. Haugen. We have talked about, over and over again
3478 today, about the nature of censorship. The thing that I
3479 think -- we need to figure out something to change the

3480 incentives, because Facebook knows lots and lots of solutions
3481 that aren't about picking good or bad ideas. That is what we
3482 have been arguing a lot about today, is I them picking out
3483 ideas. They have ways of changing the product to make it
3484 safer, but they have no incentive right now to make those
3485 trade-offs.

3486 You know, this thing like I talked about, the re-shares.
3487 That takes a little sliver of profit away from them. And
3488 they keep not doing these things, or not telling us about
3489 them because, their only incentive is profit. We need to do
3490 something to change the incentives that these companies --

3491 *Mr. Carter. Is that truly their only incentive?

3492 *Ms. Haugen. Profit? I think they do face, you know,
3493 liability, right? Like, they have a fiduciary duty to their
3494 shareholders.

3495 A lot of the things we are talking about here are trade-
3496 offs between long-term harms and short-term profits, right?

3497 I think genuinely good reform of Facebook will make it
3498 more profitable 10 years from now, because fewer people will
3499 quit. But when you look on a short-term by short-term basis,
3500 they are unwilling to trade off these slivers of profit for a
3501 safer product.

3502 *Mr. Carter. Okay. I want to get to this one final
3503 question, I am running out of time here.

3504 By profession I am a pharmacist, and I have dealt with

3505 drug addiction, and with prescription drug addiction. And
3506 all of you know that, in 2020, drug overdose deaths
3507 increased, increased by 55 percent. And you know how
3508 accessible these drugs are over the Internet, and that is
3509 disturbing. And you know that many of them are laced with
3510 fentanyl. And you are familiar with this.

3511 But my question -- and I will direct it to you, Ms.
3512 Frederick -- yes or no, would this proposal, theoretically,
3513 the proposal by the Big Tech platforms that they -- on the
3514 sale of illegal drugs on their platforms -- and one of the
3515 proposals that Republicans have put forward is to carve out
3516 Section 230 liability protection for illegal drug trafficking
3517 on a platform. Yes or no, do you think that that would work?

3518 *Ms. Frederick. Theoretically, it should, and it points
3519 to a broader problem on the platforms: drug cartels,
3520 advertisements for coyotes, trafficking people across the
3521 border illegally, foreign Islamic terrorism. Yes, I think,
3522 theoretically, it should help.

3523 *Mr. Carter. Okay, thank you, and I will yield back.

3524 *Ms. Kelly. [Presiding] I am now up next. I will
3525 recognize myself for five minutes, and I want to thank the
3526 Chairman for holding this hearing today.

3527 As you have heard, the task before us is very difficult,
3528 as we try to pursue legislation fixes to Section 230. As
3529 chair of the Tech Accountability Caucus, I believe that

3530 amending Section 230 must be done carefully to ensure we are
3531 limiting the unintended consequences, and driving the changes
3532 we really hope to achieve.

3533 The harms that were mentioned in the testimony today,
3534 and the misinformation and disinformation on many platforms
3535 cannot persist if we are to continue having a healthy
3536 democracy. Promoting disordered eating, body dysmorphia, and
3537 self-harm is sending kids and teens already struggling with
3538 their mental health down a dark path that has been shown to
3539 worsen their mental health.

3540 Mr. Steyer, why are parents not able to hold these
3541 platforms accountable for pushing this type of content?

3542 And how can the reform of Section 230 impact platforms'
3543 amplification of harmful content?

3544 *Mr. Steyer. Thank you very much for the question,
3545 Congresswoman.

3546 I would just tell you, first of all, because, right,
3547 parents aren't able to hold the platforms accountable because
3548 there is no law in place that permits that, which is why
3549 reforms of Section 230 will go a long way to doing that. You
3550 have to remove some of the immunity.

3551 For example, the issues that Ms. Haugen has talked
3552 about, in terms of the body image -- hiding the body image
3553 research by Instagram scientists. We -- I sat with the heads
3554 of Facebook a decade ago, and told them the very same

3555 messages about Facebook. Instagram wasn't as popular then.
3556 They know this, but there is no -- they have legal immunity.
3557 So, unless the -- that immunity is removed for harmful
3558 behavior, like in the case of body image issues that we have
3559 discussed, they will walk -- they will act with impunity, as
3560 all of the witnesses have said.

3561 So I think it is extremely important that we -- that
3562 this body acts. Our prior congressperson mentioned the idea
3563 could these guys self-regulate. The answer is clearly no.
3564 Parents across the country -- we have well over 100 million
3565 of them on Common Sense Media -- do not believe that they
3566 have the power to do that. You do, as Congress.

3567 So, A, please reform Section 230 along the lines that
3568 some of the proposals that you put forward have; and second,
3569 look at a broader, comprehensive approach that includes
3570 privacy by design, and some of the -- and antitrust, and
3571 other important ways that will put power in the hands of
3572 parents, where it belongs.

3573 Thank you very much for the question.

3574 *Ms. Kelly. Thank you.

3575 And Mr. Robinson, first and foremost, thank you, thank
3576 you, thank you for your leadership. In your testimony you
3577 talk about the particular challenges communities of color
3578 face online with regards to content moderation. How do we
3579 ensure that civil rights are not circumvented online, and

3580 that platforms are not facilitating discrimination through
3581 moderation?

3582 *Mr. Robinson. Thank you for that question,
3583 Congresswoman.

3584 We remove immunity. The fact of the matter is that the
3585 technology of the future is dragging us into the past,
3586 because platforms have been given this idea, and have been
3587 given these laws to believe that they are immune for a whole
3588 set of laws that people died for in this country to put on
3589 the books. And now we are sort of re-arguing and re-engaging
3590 around whether or not it is okay to discriminate against
3591 people in housing, employment, and data. These are things
3592 that should have already been settled, but now the technology
3593 of the future is dragging us into the past.

3594 *Ms. Kelly. And the other thing that I think about in
3595 listening to you, as chair of the Tech Accountability Task
3596 Force, we have called them out on their lack of diversity in
3597 their boardrooms, you know, C-suites, whatever. And I can't
3598 help but think that is part of the issue, too.

3599 *Mr. Robinson. Absolutely.

3600 [Audio malfunction.]

3601 *Voice. His mike is off.

3602 *Ms. Kelly. Oh, your mike is --

3603 *Mr. Robinson. My microphone was not on, sorry.

3604 [Laughter.]

3605 *Mr. Robinson. So the -- so they have left huge swaths
3606 of communities out -- is deeply troubling.

3607 These are choices these platforms have made, year over
3608 year. We end up getting these -- all sorts of commitments
3609 from diversity and inclusion officers at these companies,
3610 saying they are going to do better.

3611 We have asked them to disaggregate their data.
3612 Sometimes they will say, "Oh, we are at two percent, or three
3613 percent Black," and then we ask them to disaggregate, and
3614 then we will find out that the numbers -- that they will be
3615 including bus drivers, and cafeteria workers, who are
3616 fighting for a living wage inside of those numbers.

3617 And so, the fact of the matter is, these companies are
3618 making choices every single day, and they are giving lip
3619 service to diversity, lip service to inclusion, and then
3620 creating all sorts of technologies that harm us all.

3621 *Ms. Kelly. Thank you so very much. My time is up.

3622 *Ms. Haugen. Could I add a tiny sliver? It is even
3623 worse when we talk about international representation from
3624 the global south. Facebook has built the Internet for the
3625 global south. For a majority of languages in the world,
3626 Facebook is the Internet, 80 to 90 percent of that content in
3627 their language, and they have almost no representation from
3628 the global south.

3629 *Ms. Kelly. Thank you. I would like to recognize Mr.

3630 Mullin now.

3631 *Mr. Mullin. Thank you, Madam Chair. I am going to try
3632 to be pretty quick here.

3633 I mean, we have been talking about Section 230, and the
3634 protection that, you know, that these companies seem to hide
3635 behind, and some of the abuse. And I am just -- I am not
3636 trying to play politics here, I am just bringing up, you
3637 know, what has happened just in the last week.

3638 And underneath Section 230, you know, is supposed to be
3639 the town square, where you can post anything and no one is
3640 held responsible for it. And in those parameters, you know,
3641 obviously, you can't make a direct threat, or a death threat
3642 at somebody, or -- and these platforms have took it a little
3643 bit farther to show extremist views. But they are becoming
3644 political platforms, and we know this. And so this is kind
3645 of what I wanted to bring about.

3646 Ms. Frederick, as you know, Google recently prohibited
3647 abortion pill reversal advertisement that was supported by
3648 pro-life organizations. And then they turned around and
3649 allowed advertisement to continue for medication-assisted
3650 abortion pills to support pro-life -- or pro-abortion groups.
3651 When we start talking about Section 230, was Section 230 --
3652 was this what it was designed for, to limit someone's ability
3653 to voice their opinion, and then allow somebody to say that
3654 it is or isn't?

3655 And when we have -- I mean, this is what this country
3656 does. We have opposite views, and when we have opposite
3657 views we air them out, we talk about it. But completely
3658 eliminating one person's view, and just putting stuff that
3659 you agree with, that doesn't fall within Section 230, does
3660 it, Ms. Frederick?

3661 *Ms. Frederick. Not at all, and this is why the FCC
3662 Chairman (sic) Brendan Carr says that Section 230, right now,
3663 amounts to a regulatory legal advantage for one set of
3664 political actors. And we see the disparity between what Big
3665 Tech companies censor coming from the right, and then what
3666 they censor that maybe cleaves to a leftist narrative that
3667 they approve of. If you look at the hypocrisy, it is
3668 rampant.

3669 As we talked about just in the national security space,
3670 Iranian officials, North Korean officials, CCP spokespeople,
3671 the Taliban, all of these people are free to say what they
3672 want on these tech companies. Usually it is a vociferous or
3673 even an obstreperous right who says, "What is going on here?
3674 This is hypocrisy. It can't stand.'" And then they maybe
3675 think about it. They maybe say this is human error, and
3676 redress those issues. But that doesn't happen often, and it
3677 doesn't happen unless we talk very seriously, or at least
3678 flag these issues.

3679 So this is not what Section 230 was created for. We

3680 need to realign it with Congress's original intent. But it
3681 is being abused right now.

3682 *Mr. Mullin. I couldn't agree with more -- agree with
3683 you more on that.

3684 So with that I will yield back. Thank you.

3685 *Mr. Doyle. [Presiding] Okay, who is next?

3686 The chair recognizes Ms. Craig for five minutes.

3687 *Ms. Craig. Thank you so much, Mr. Chair, both you and
3688 to Ranking Member Latta, for holding this really, really
3689 important hearing. Thank you so much for the witness
3690 testimony.

3691 We have been talking about Section 230 reform in various
3692 formats, I know, for many years. And some of the folks who
3693 have been here for more than a decade have brought that up
3694 today.

3695 And I am glad we are finally diving into some specific
3696 pieces of legislation, whether they are perfect or not.

3697 As Mr. Steyer noted, children and young adults are
3698 living much of their lives online, in a world that is created
3699 by the various tech platforms. That world is increasingly
3700 controlled by algorithms over which young people and their
3701 parents have absolutely no control. This lack of control has
3702 a real-world impact on people and families in our
3703 communities.

3704 One example is the role that, as you have talked about

3705 today, these platforms play in the sale of illegal drugs to
3706 young members in our communities. You have talked about it a
3707 lot today, but I just want to describe what I experienced a
3708 month ago, back in October.

3709 I joined community members in a small Mississippi river
3710 town called Hastings in my congressional district, and we
3711 gathered to talk about the opioid and fentanyl crisis,
3712 because we have had too many young people who we have lost in
3713 that community. During that event I listened to the story of
3714 a woman, a mother, who has now become an advocate by the name
3715 of Bridget Nouri. She lost her son, Devin, in a tragic and
3716 accidental overdose after he bought a pill through a Snapchat
3717 interaction. Devin thought the pill was a common painkiller
3718 that would help him with his debilitating migraines.
3719 Instead, it was laced with fentanyl.

3720 The questions that Bridget has, they really get right to
3721 the point for all of you. How can we trust platforms to
3722 ensure the best outcomes for our society, when too many young
3723 people like Devin have been lost because of those algorithms
3724 that don't account for human safety and well-being?

3725 How do we make smart, long-lasting and constructive
3726 changes to these laws, to ensure that online environments are
3727 a place where young people can learn and build community
3728 safely, not be pushed toward destructive or harmful content,
3729 simply because it is the thing that is most likely to get the

3730 most clicks?

3731 I believe that the answers lie somewhere in some of the
3732 bills that are before us today, and I guess I just start with
3733 Ms. Haugen for my first question.

3734 Can you help us understand how Facebook and the other
3735 tech companies you have worked for factor the impact on
3736 children and young adults into their decision-making?

3737 And does that real-world impact have potential -- cause
3738 them -- does it shape their algorithm development at all at
3739 this point?

3740 *Ms. Haugen. Mr. Robinson mentioned the lack of
3741 diversity at these tech companies. One of the groups that is
3742 never represented amongst tech company employees is children,
3743 and it is important for us to also acknowledge that many of
3744 the people who found startups or who populate even large
3745 companies are people who are very young. You know, they are
3746 under the age of 30, and they almost always don't have
3747 children.

3748 I think the role of children, and acknowledging them as
3749 people, and as people who have different needs is not present
3750 enough at tech companies. And that means that, often, just
3751 as diversity is usually not designed in from the start,
3752 acknowledgment of the needs of children is also usually not
3753 designed from the start, and, as a result, it doesn't get as
3754 much support as it needs.

3755 *Ms. Craig. Thank you for that.

3756 A follow-up, maybe, for Mr. Steyer.

3757 In your work at Common Sense you identified specific
3758 solutions to address the sale of illegal drugs on tech
3759 platforms. How do you see the -- that issue addressed in any
3760 of these bills, or these bills -- or not addressed in the
3761 bills?

3762 Are there gaps that you think we also need to put more
3763 thought into?

3764 *Mr. Steyer. Very good question, Congresswoman Craig.

3765 So first of all, I think most of the bills will remove
3766 liability for harmful behavior, and that, clearly, would fall
3767 under that category. So I think that several of the bills in
3768 front of you -- and a couple of the ones that have been
3769 mentioned by other members -- will actually address that.

3770 I think your point is extremely well taken,
3771 Congresswoman, because the really -- the thing that will move
3772 this forward, and that will, I believe, get this committee to
3773 act in a way that will have an extraordinarily important
3774 impact for kids and families across the country, no matter
3775 what politics they have, is the focus on children. And you
3776 have the power to do that. And if we reform Section 230, and
3777 remove the liability protections around harmful behaviors
3778 like the drug sales you are talking about, that will be an
3779 extraordinarily important move forward.

3780 So I really urge you all to do this on a bipartisan --
3781 [Audio malfunction.]

3782 *Mr. Steyer. -- now, because the parents of America are
3783 counting on you.

3784 *Ms. Craig. Thank you so much for that answer. And,
3785 you know, I have four boys. It is too late -- they range in
3786 age from 18 to 24 -- to be able to impact their lives. But I
3787 have an eight-week-old grandson, and it sure as damn better
3788 not take us another decade to figure this out.

3789 *Mr. Steyer. Hear, hear.

3790 *Ms. Craig. Thank you, Mr. Chair, and I yield back.

3791 *Mr. Doyle. The gentlelady yields back. The chair now
3792 recognizes Mrs. Fletcher.

3793 *Mrs. Fletcher. Thank you, Chairman Doyle. Thanks to
3794 you and Ranking Member Latta for organizing and holding this
3795 hearing today, and thank you to all of the witnesses who are
3796 here today. Your testimony has been very useful for all of
3797 us.

3798 And listening to you and my colleagues today, as we have
3799 addressed these issues over time -- so this isn't our first
3800 hearing, but it is clear that the legislation we are talking
3801 about today, the things that we are taking time to address --

3802 *Mr. Doyle. So we go to --

3803 *Mrs. Fletcher. And the broader approach that Mr. Welch
3804 discussed, and as Mr. --

3805 *Mr. Doyle. Okay.

3806 *Mrs. Fletcher. -- and Ms. Kelly both said, this is not
3807 at all easy to do, because we are talking about how we
3808 balance a lot of interests here, a lot of challenges. We
3809 want to protect our children. We want to protect the free
3810 exchange of ideas and our marketplace of ideas. And that is
3811 really the foundation of a democratic society, right,
3812 exchange of ideas and debate and, ultimately, hopefully, some
3813 consensus.

3814 But what we have learned and are continuing to learn is
3815 that some of these addictive design features have not only
3816 the potential to sow division and extremism, but the actual
3817 effect of doing so. And, as we have heard today, what we saw
3818 in some of the Wall Street Journal reporting and the Facebook
3819 Files, that Facebook made some changes to that algorithm that
3820 were meant to encourage people to interact more with friends
3821 and family through meaningful social interaction. But they
3822 actually did something very different.

3823 And I know that -- I would like to direct my questions
3824 to Ms. Haugen a little bit. We know, we have read, and we
3825 have heard from your testimony that researchers within the
3826 company, as well as online publishers who used Facebook to
3827 drive traffic to their websites, warned the company that
3828 divisive, toxic, and inflammatory content was being rewarded
3829 by the algorithm, and pushed into more and more users'

3830 newsfeeds.

3831 So, Ms. Haugen, can you talk a little bit about how and
3832 why the algorithm had such a different and devastating result
3833 than was intended? Can you talk a little bit about that?
3834 And then I have a follow-up after that, if we have time.

3835 *Ms. Haugen. Mark Zuckerberg said in 2018 that
3836 engagement-based ranking, i.e. prioritizing content based on
3837 its ability to elicit a reaction from you, was dangerous. It
3838 is because people were drawn to engage with extreme content,
3839 even when they asked them afterwards, "Did you like that,"
3840 and they said no.

3841 And he said, "But don't worry, AI will save us,"
3842 ignoring the fact that the AIs that they built were
3843 insufficient.

3844 What happens is there is two sides to the problem. One
3845 is that publishers see that, if they make content that has
3846 more negative comments, the more negative the comments on
3847 your content, the more likely you get a click back to your
3848 site, the more likely a publisher makes money off of that
3849 interaction. So there is an incentive for publishers to make
3850 more and more divisive and polarizing content.

3851 The second side is that the algorithm gives more reach
3852 and distribution to people if it is more likely to elicit a
3853 reaction. And so any thread that causes controversy, versus
3854 one that brings reconciliation, will get more distribution in

3855 the system. This has been known in psychology for years,
3856 that it is easier to elicit anger from someone than
3857 compassion, and it is known inside the company.

3858 But they don't change it because the way the system is
3859 built today causes you to produce the most content. Because
3860 when it elicits that reaction from you, a comment, like, or
3861 re-share, it encourages the other person to keep making
3862 content. So this is not here for us to have more meaningful
3863 interactions; it is so that we can be a tool for more content
3864 to be produced.

3865 *Mrs. Fletcher. Okay, thank you. So following up on
3866 that -- and I think you addressed it a little bit already in
3867 your response to Mr. Carter, and some of the discussions that
3868 we have had already today, but can you talk a little bit
3869 about -- I mean, that is one thing, to have the stated goal
3870 to do this. Is it possible for the platforms to change their
3871 algorithms or their other practices, some which you talked
3872 about earlier, to promote healthy user engagement, and reduce
3873 some of these negative outcomes?

3874 And --

3875 *Ms. Haugen. There -- oh.

3876 *Mrs. Fletcher. -- coupled with that, can you just talk
3877 about the ways that you think Congress can help make that
3878 happen?

3879 *Ms. Haugen. Facebook has lots of solutions that lead

3880 to less misinformation, less polarization, more divisiveness
3881 that don't require us picking and choosing which ideas are
3882 good. I will give you an example.

3883 They have a picker that allows you to re-share not to
3884 one group, but to many groups simultaneously. They don't
3885 have to have that feature. They have it because it makes the
3886 platform grow faster. But that feature causes more
3887 misinformation. And they know that, because a small number
3888 of people are hyper-spreaders.

3889 When we add friction to the system, when we make people
3890 make intentional choices to spread information, it happens to
3891 be we get less violence, we get less hate speech for free.
3892 We don't have to pick and choose the individual things.

3893 The question is, how do we incentivize Facebook to make
3894 these decisions? Because, in order to make them, they have
3895 to sacrifice little slivers of growth. And the reality is we
3896 have to create incentives that counter away these profit
3897 motives, if we want Facebook to act in the common good.

3898 *Mrs. Fletcher. Okay. Well, thank you very much for
3899 that testimony, and I am out of time.

3900 So, Mr. Chairman, I yield back.

3901 *Mr. Doyle. The gentlelady yields back. I think that
3902 is all the members of the subcommittee.

3903 So now we are going to those members who have waived on,
3904 and we will start with Dr. Burgess.

3905 *Mr. Burgess. I thank the chair for the recognition,
3906 thank you all for your testimony and your ability to survive
3907 during a very lengthy congressional hearing, and I appreciate
3908 your input and your attendance today.

3909 Ms. Frederick, if I could just ask you on the issue of
3910 the fact that we know the platforms do use algorithms to
3911 filter content, and to help identify posts or information
3912 that might violate their content and moderation policies, but
3913 the sheer volume of that content that they have to evaluate
3914 -- can you give us some guidance as to how Congress might
3915 incentivize fair and accurate enforcement of content
3916 moderation policies by the tech companies that have the
3917 Section 230 liability?

3918 *Ms. Frederick. So I think there are a couple of ways
3919 to do that.

3920 As I said before, use that First Amendment as a standard
3921 to reform Section 230. And then I think that companies
3922 should implement a user-friendly appeals process to provide
3923 that prompt and meaningful recourse for users who think that
3924 they have been wrongfully targeted for their speech. So,
3925 basically, give power back to the hands of the people, and
3926 not the platform itself. Let them actually use the judicial
3927 system to address those issues.

3928 And we -- I really think we should examine discrepancies
3929 in between what these companies say they do, what they say

3930 they stand for -- these are U.S.-based companies -- their
3931 terms of service, their policies, and those implementations.
3932 If there is a discrepancy, why not bring them up on breach of
3933 contract? Why not examine them as possible cases of fraud?

3934 So you have to give the people some efficacy against
3935 these platforms because, frankly, they are not afraid. They
3936 are not afraid of Congress. They are not afraid of you,
3937 especially on the right side of the aisle. They do not fear
3938 the use or the incentivization of any of these mechanisms to
3939 cause them to fix what they have been doing wrong.

3940 *Mr. Burgess. I have an impression that you are
3941 correct. They don't. They don't fear on this side of the
3942 dais.

3943 So -- and kind of what you are talking about there is a
3944 way to increase the transparency of the algorithms that use
3945 -- that are in use on those platforms. So is there a way to
3946 get to the transparency without jeopardizing the proprietary
3947 business nature of the information?

3948 *Ms. Frederick. I think there is a difference between
3949 proprietary designs of algorithms, and then reporting and
3950 details on how these algorithms affect users and impact users
3951 on the platform. So that distinction should be made. And
3952 when we are incentivizing algorithmic transparency, I do
3953 think there has to be a publicly -- a public availability
3954 component, and there has to be some sort of teeth.

3955 Again, we have institutions that exist for a reason.
3956 The FTC exists for a reason. There are enforcement
3957 mechanisms that already exist. We don't have to expand
3958 government power. We don't have to weaponize it. But we do
3959 need to give this some teeth.

3960 *Mr. Burgess. Well, let me just ask you, Ms. Haugen.
3961 Do you think that transparency, that insight exists within
3962 the company, say a company like Facebook? Are they aware
3963 that this occurs?

3964 *Ms. Haugen. That there is not a recourse for over-
3965 enforcement, or what is --

3966 *Mr. Burgess. Right.

3967 *Ms. Haugen. -- that question?

3968 *Mr. Burgess. So the algorithms that are developed for
3969 content moderation, are they aware of the effect that that
3970 has on the end user?

3971 *Ms. Haugen. They are very aware that people have a
3972 very strong emotional response when their content is
3973 moderated, and they are very aware that the system -- the
3974 amount of content that has to be moderated is so high that
3975 they make they -- I don't want to describe them as shortcuts,
3976 but they make many optimizations that lead, potentially, to
3977 inaccurate enforcement.

3978 *Mr. Burgess. Sure, it gets back to the sheer volume
3979 argument.

3980 *Ms. Haugen. Yes, exactly.

3981 *Mr. Burgess. Let me ask you something, because when
3982 your testimony before the Senate came out, and the Wall
3983 Street Journal did their series of articles on Facebook, and
3984 I heard an interview with Dr. Sanjay Gupta on CNN talking
3985 about teen suicide, interesting comments that he had, and
3986 then he went further and said it is far in excess in teenage
3987 girls and adolescent girls.

3988 And apparently, if you look at the studies, that is the
3989 case. And some of it does seem to be related to screen time
3990 and usage. Is this something that is known internally within
3991 the company?

3992 *Ms. Haugen. Facebook has done proactive
3993 investigations. I think it is called proactive incident
3994 responses. So these are things where they hear a rumor and
3995 they go check for it. They know that you can follow very
3996 neutral interests like healthy eating and, just like clicking
3997 on the content provided, be led to anorexia content. Like,
3998 that is what the algorithms do. They lead to amplification.

3999 They know that children sometimes self-soothe, that as
4000 they get more depressed, as they get more anxious, they
4001 consume more and more and more content. And when the content
4002 itself is the driving factor and the problem, that leads to
4003 tragedy. And Facebook is aware of all those things.

4004 *Mr. Burgess. You know, one of the things that strikes

4005 me -- and I am a physician in my former life -- to be able to
4006 have that information available to caregivers, so that they
4007 are aware of the clues or cues that should be sought -- you
4008 know, we are all trained to ask about whether someone is
4009 depressed, whether someone is worried about hurting
4010 themselves or someone else. But here it seems so specific,
4011 and it seems like the information that the company could make
4012 available to doctors, nurses, caregivers, in general, it
4013 seems like that should be something that is just done. But I
4014 get the impression that it is not.

4015 *Ms. Haugen. I have been told by government --
4016 governmental officials in other countries that they have
4017 asked Facebook things like how many children are overexposed
4018 to self-harm content. And Facebook says, "We don't track
4019 what content is self-harm content, so we don't know."

4020 *Mr. Burgess. Yes.

4021 *Ms. Haugen. I think Facebook has some willful
4022 ignorance with regard to the harms against children, where
4023 they have intentionally not investigated or invested
4024 resources in understanding these problems, because they are
4025 afraid that they would have to do something if they could
4026 concretely know what was going on.

4027 *Mr. Doyle. Yes, the gentleman's time is expired.

4028 *Mr. Burgess. Mr. Chairman, if I may, it seems like we
4029 have an obligation to inform the provider community that this

4030 is important, and this is something that should be actively
4031 sought when taking a history with a patient.

4032 Thank you, I will yield back.

4033 *Mr. Doyle. The chair recognizes Ms. Schakowsky for
4034 five minutes.

4035 *Ms. Schakowsky. Thank you, Mr. Chairman, and thank you
4036 for allowing me to waive on to this really extraordinary
4037 hearing. And I want to thank all of the panelists. This has
4038 been so important.

4039 And I would especially like to thank the testimony of
4040 Ms. Haugen, and thank you for your courage and your strength
4041 in testifying today, and really clearing -- clarifying for
4042 the committee and for the public the incredible harms that
4043 can be created on online.

4044 So yesterday I introduced a bill called the FTC
4045 Whistleblower Act with my colleague, Representative Trahan.
4046 And this legislation would protect whistleblowers who -- that
4047 provide information to the Federal Trade Commission's --
4048 Federal Trade Commission from retaliation from their brave
4049 and courageous activities by disclosing the kinds of things
4050 that we think need to be disclosed. So here is my question
4051 for you.

4052 Why is it, and can you explain to us, why you brought
4053 your evidence to the Securities and Exchange Commission, how
4054 that decision got made?

4055 *Ms. Haugen. My lawyers advised me that, by disclosing
4056 to the SEC, I would receive Federal whistleblower
4057 protections. I think it is extremely important for us to
4058 expand those protections, both to private companies --
4059 because if I had been at TikTok, I would not have been
4060 eligible for those protections.

4061 *Ms. Schakowsky. So, in your view, are whistleblowers
4062 who want to expose wrongdoing or help to defend consumers by
4063 reporting to the Federal Trade Commission protected under
4064 that law?

4065 *Ms. Haugen. Was the question are they protected under
4066 FTC, or that they should be?

4067 *Ms. Schakowsky. Well --

4068 *Ms. Haugen. I am not --

4069 *Ms. Schakowsky. No, my question is under -- what you
4070 did would not protect them --

4071 *Ms. Haugen. Oh yes.

4072 *Ms. Schakowsky. -- if they went to the -- if they were
4073 revealing something from the -- to the Federal Trade
4074 Commission.

4075 *Ms. Haugen. I think this is an issue that both the
4076 right and the left can get behind. Like, when the right
4077 worries about over-enforcement, that is a thing that we
4078 should be able to know about, if it is happening inside
4079 companies.

4080 Or on the left, if we want to have Democrat control of
4081 these institutions, no one but the employees at these
4082 platforms knows what is going on, except the employees. So
4083 we need to have whistleblower protections in more parts of
4084 the government.

4085 And I strongly encourage having protections for former
4086 employees also, because that clarity in the law is vitally
4087 important.

4088 *Ms. Schakowsky. So then you do believe that
4089 establishing some sort of legal protection against
4090 retaliation and, you know, whistleblower protections at the
4091 Federal Trade Commission would be important.

4092 But I hear you also saying that the fact that it is,
4093 like, agency by agency -- that we don't have any kind of
4094 umbrella protection for consumer whistleblowers is a problem,
4095 as you see it.

4096 *Ms. Haugen. It is a huge, huge problem. We are living
4097 in a time when technology is accelerating. Technology has --
4098 governance has always lagged behind technology. And as
4099 technology gets faster and faster and more opaque, it becomes
4100 more and more important for us to have systemic protections
4101 for whistleblowers if we want to remain with the government
4102 in control of these things. Technology needs to live in
4103 democracy's house.

4104 *Ms. Schakowsky. Thank you. Really, that was the only

4105 question that I had. I just wanted to raise the issue that
4106 you needed to go there on the advice of your attorneys,
4107 because that was a place that you would have protection. But
4108 the fact that ordinary people who have legitimate claims,
4109 that know things that need to be shared do not have that
4110 protection right now.

4111 I actually didn't know that it also did not apply to ex-
4112 Federal employees, and I think that they should be covered,
4113 as well.

4114 *Ms. Haugen. The important -- I want to really
4115 emphasize again that concept of private versus public
4116 employees. So if I had worked at a private company, like
4117 TikTok, I would not have received protections from the SEC.

4118 And I want -- a thing that is not necessarily obvious to
4119 people is that companies are going public later and later and
4120 later. They are huge companies by the time they go public.
4121 And so we need to have laws that protect across the Federal
4122 Government whistleblowers, and they need to be at private and
4123 public companies.

4124 *Ms. Schakowsky. So you are saying that only those
4125 corporations that have gone public right now would be
4126 included.

4127 *Ms. Haugen. If I -- my understanding -- I am not a
4128 lawyer.

4129 *Ms. Schakowsky. Okay.

4130 *Ms. Haugen. But my understanding is, if I had been at
4131 a private company, I would not have gotten SEC protections,
4132 because the whistleblower protection program at the SEC only
4133 covers public employees, and public --

4134 *Mr. Doyle. The gentlelady's time has expired.

4135 *Ms. Schakowsky. Thank you, I yield back.

4136 *Mr. Doyle. The chair now recognizes Mr. Pence for five
4137 minutes.

4138 *Mr. Pence. Thank you, Chairman Doyle and Ranking
4139 Member Latta for allowing me to join today, and thank the
4140 witnesses for their testimony and answering the questions.

4141 While I am encouraged that this hearing represents a
4142 positive step towards reforming Section 230, I hope we can
4143 create bipartisan bills for consideration. Republicans on
4144 this committee have put forth thoughtful reforms to Section
4145 230 that would greatly rein in Big Tech's unchecked authority
4146 to silence hardworking Hoosiers and all Americans. I
4147 encourage my colleagues in the majority to continue to
4148 include proposals from this side of the aisle on issues
4149 affecting all of our constituents.

4150 As I stated during our hearing earlier this year with
4151 Big Tech CEOs, these platforms have become reminiscent of
4152 all-encompassing monopolies, whether it was Standard Oil or
4153 Ma Bell, most of the country had no choice but to rely on
4154 their services. Likewise, social media platforms connect

4155 every aspect of our lives, from family photos to political
4156 opinions. Even representatives in Congress are all but
4157 required to have a Facebook and Twitter account to reach our
4158 constituents, which is very bothersome to a 65-year-old
4159 congressman.

4160 Big Tech claims to understand the gravity of their
4161 influence, but their actions say otherwise. Twitter allows
4162 the Supreme Leader of Iran to have a megaphone to proclaim
4163 derogatory statements against Jewish culture, and endorse
4164 violence against the U.S. and Western world, which I called
4165 out in a earlier committee hearing. They continue to allow
4166 the Chinese Communist Party to peddle propaganda. Here at
4167 home, Google allegedly tried to use their own advertising
4168 monopoly to financially harm the conservative news outlet,
4169 "The Federalist," as one of the witnesses today talked
4170 about, and other companies, as well.

4171 When Jack Dorsey announced his departure from Twitter on
4172 Monday, he ended his message wishing they would be the most
4173 transparent company in the world. I hope this commitment
4174 reverberates across the entire industry.

4175 Hoosiers and all Americans should know exactly how these
4176 companies are profiting off the personal information of its
4177 users, how IP has been stolen by adversarial countries like
4178 China, and how social media platforms give megaphones to
4179 dictators and terrorists, while manipulating addictive

4180 quality of posts, likes, and comments to hook our children
4181 into their service. We should have a better understanding
4182 behind Big Tech's decision to moderate content under their
4183 Section 230 shield.

4184 Ms. Haugen, I am hoping you can comment on a suggested
4185 reform to Section 230 that I don't necessarily agree with or
4186 disagree with, I just want to get your thoughts on this. It
4187 has been suggested that a revised version of Section 230 for
4188 the treatment of a publisher or speaker would read -- and I
4189 quote -- "No provider or user of an interactive computer
4190 service shall be treated as the publisher or speaker of any
4191 speech protected by the First Amendment wholly provided by
4192 another information content provider, unless such provider or
4193 user intentionally encourages, solicits, or generates revenue
4194 from that speech.'" If this language was signed into law,
4195 how would this affect social media platforms' ability to
4196 monetize higher engagement from harmful rhetoric?

4197 *Ms. Haugen. I am not a lawyer, so I don't understand
4198 the -- necessarily, the nuances. Is the difference between
4199 the current version and that version that, if you profit from
4200 the content, then you are liable? Like, I am not sure what
4201 the current wording of the law is.

4202 *Mr. Pence. If you are promoting -- you would no longer
4203 have protection --

4204 *Ms. Haugen. If you were monetizing it?

4205 *Mr. Pence. If --

4206 *Ms. Haugen. If you were monetizing --

4207 *Mr. Pence. -- you are promoting -- yes, monetizing it,
4208 correct.

4209 *Ms. Haugen. I do not support removing 230 protections
4210 from individual pieces of content, because it is --
4211 basically, it is functionally impossible to do and have
4212 products like we have today.

4213 If we called out the idea that you would have to --
4214 that, if it was -- in a place like Facebook, it is actually
4215 quite hard to say which piece of content led to monetization,
4216 right?

4217 So if you look at a feed of 30 posts, which --

4218 *Mr. Pence. But if they are shooting it out all over
4219 the place, because it is because negativity, or anger, or
4220 hatred -- and let me ask, in the time remaining, Ms.
4221 Frederick, could you answer that real quick?

4222 *Ms. Frederick. I am also not a lawyer, but I do like
4223 money, so that gives me a little bit of pause when we think
4224 about people's ability to monetize their livings on these
4225 platforms, because part of the problem, we know, is that
4226 normal people who just want to have a business, and maybe
4227 have some skepticism about what public health officials say,
4228 when they question that dogma, or that orthodoxy, or that
4229 leftist narrative, they are suspended or banned from the

4230 platform. So I want to protect the individual, and the
4231 individual rights, more than anything.

4232 *Mr. Doyle. The gentleman's time has expired.

4233 *Mr. Pence. Thank you, Mr. --

4234 *Mr. Doyle. The chair now recognizes Ms. Castor for
4235 five minutes.

4236 *Ms. Castor. Well, thank you, Chairman Doyle, for
4237 calling this very important hearing, and thank you to our
4238 witnesses.

4239 And to Ms. Haugen, you are courageous, and I think we
4240 all owe you a debt of gratitude for blowing the whistle on
4241 Facebook's harmful corporate operation, the harmful -- the
4242 design of their platform. They know the damage they are
4243 causing, and yet they look the other way, and fatten their
4244 wallets at the same time.

4245 And Mr. Steyer, thank you for your years of commitment
4246 to keeping our children safe online. Thank you for your
4247 advice as we drafted the Kids Privacy Act, the update to
4248 COPPA. Hopefully, we will get to privacy as we move design
4249 reform and Section 230 reform along, as well.

4250 And Mr. Robinson, thank you. Let's get into Section 230
4251 a little bit. You say we should not nullify consumer safety
4252 or civil rights laws. We shouldn't encourage illegal,
4253 harmful behavior. I mean, we don't allow this to happen in
4254 the real world. We shouldn't allow it to happen in the

4255 online world.

4256 Section 230, the courts have interpreted this section to
4257 provide -- and remember, this was adopted in 1996, a world
4258 away from where we are now online, but the courts have
4259 interpreted Section 230 as a -- almost a complete immunity
4260 from liability for what happens on their platform, no matter
4261 how illegal, harmful. It is so flagrantly bad that judges
4262 now are asking the Congress to please weigh in and reform
4263 Section 230.

4264 So that is why I filed the SAFE TECH Act with
4265 Congressman McEachin, who was on earlier. The SAFE TECH Act
4266 would remove Section 230 liability, the liability shield for
4267 violations of civil rights laws, antitrust laws, stalking,
4268 harassment, intimidation laws, international human rights
4269 laws, and wrongful death actions.

4270 Some of the bills, the other bills on the agenda today,
4271 focus on the algorithmic amplification, or targeting, that
4272 leads to certain harms. Do we need to blend these
4273 approaches, or do you -- would you highlight one over the
4274 other? I will start with you, Mr. Robinson.

4275 *Mr. Robinson. I think we need multiple approaches, and
4276 I think we need to start by, really, by removing all -- the
4277 immunity that these companies have when it comes to violating
4278 existing law, both in terms of amplification and in terms of
4279 sort of what they allow on their platform.

4280 The fact of the matter is that this has to go hand in
4281 hand, though, with transparency. Because what we end up with
4282 is these companies determining when they let us know, or when
4283 we get to know. We just got a whole new set of documents
4284 through The Washington Post that let us know that they had
4285 done all sorts of internal research to actually show -- and I
4286 know there has been a lot of conversation here today about
4287 this idea of conservative bias. But, in fact, Black people
4288 were sort of much more likely to have their content pulled
4289 down than White people on the platform for similar levels of
4290 violations.

4291 Time and time again -- this was Facebook's own internal
4292 research. They got the research, then they squashed that
4293 research. So we end up with these conversations about this
4294 idea of conservative bias, when their own research tells them
4295 something different. Then they refuse to do anything about
4296 it, because they have immunity --

4297 *Ms. Castor. So you think a -- that blended approach.

4298 *Mr. Robinson. Blended.

4299 *Ms. Castor. Ms. Haugen, what is your view?

4300 *Ms. Haugen. I agree that we need multiple approaches.
4301 Just removing immunity will not be sufficient. We need to
4302 have ways of being able to get information out of these
4303 companies, because one of the things that is lacking for
4304 Facebook that is not lacking for any similarly powerful

4305 industry is, because they have hid the data, they have hid
4306 the knowledge -- you can't get a master's degree on the
4307 things that drive Facebook, right, or any of the other social
4308 media companies, you have to learn it inside the company --
4309 is that we lack public muscle to approach these problems, to
4310 develop our own solutions. And until we have something more
4311 systematic, we will not be able to hold these companies
4312 accountable.

4313 *Ms. Castor. Mr. Steyer?

4314 *Mr. Doyle. Oh, Mr. Steyer had to leave early. I am
4315 sorry, I should have made that announcement. We thank him
4316 for being on the panel, but he is not with us any more.

4317 *Ms. Castor. Ms. Frederick, do you want to weigh in on
4318 the design and the algorithmic amplification in Section 230
4319 reform? What is your view?

4320 *Ms. Frederick. So Section 230 reform, generally, I
4321 think, again, it starts with that First Amendment standard,
4322 and then you allow people to have recourse in courts, and
4323 then you let companies -- or you make sure that companies
4324 report their content moderation methodology, their practices
4325 to some sort of mechanism, like the FTC, with that public
4326 availability component. And then you add algorithmic
4327 transparency into that, as well.

4328 So it is the public availability component that I think
4329 helps give people power back when it comes to them standing

4330 up against these companies and their concentrations of power.

4331 *Mr. Doyle. The gentlelady's --

4332 *Ms. Castor. Thank you all very much.

4333 *Mr. Doyle. -- time has expired.

4334 *Ms. Castor. I yield back.

4335 *Mr. Doyle. Let's see, Mr. Crenshaw, you are recognized
4336 for five minutes.

4337 *Mr. Crenshaw. Thank you, Mr. Chairman. Thank you,
4338 everyone, for being here.

4339 Ms. Haugen, I would like to start with you, please. You
4340 were a lead product manager at the Civic Misinformation
4341 Department at Facebook, or Civic Integrity, as it is
4342 sometimes called. I want you to help us understand what
4343 standards are used to decide what is misinformation and what
4344 isn't. And I know that could be an hour-long answer.

4345 *Ms. Haugen. Sure.

4346 *Mr. Crenshaw. If you could do a short one --

4347 *Ms. Haugen. So, just for clarification, people have
4348 sometimes said that my team took down, I think, the Hunter
4349 Biden story. There are two teams at Facebook -- or more than
4350 two teams -- that deal with misinformation. So the main
4351 misinformation team, which was under community integrity,
4352 uses third-party fact-checkers, which are independent
4353 journalists who identify the -- they are allowed to make any
4354 choice they want to within the queue of stories, and then

4355 they write their own journalism. And that is what -- how
4356 things are decided to be true or false.

4357 My team worked on --

4358 *Mr. Crenshaw. Do you guys see any problem with
4359 outsourcing the fact-checking to people who really don't
4360 check facts, but instead check opinions?

4361 I mean, I am a victim of that many times by these so-
4362 called journalists who are so-called fact checkers. Is there
4363 any concern about that at Facebook?

4364 *Ms. Haugen. I -- it is a very complicated and nuanced
4365 issue. I did not work on the third-party fact-checking
4366 program, though, so I am not aware of all --

4367 *Mr. Crenshaw. Okay, but that is one standard. So any
4368 other principles that we might point to that are -- that
4369 would lead us to understanding what the standard is, and --

4370 *Ms. Haugen. Sure.

4371 *Mr. Crenshaw. -- what is misinformation, what is --

4372 *Ms. Haugen. Facebook's policy is very clear. They are
4373 not the arbiters of truth. So I think there is an open
4374 opportunity for public discussion on how third-party fact
4375 checks should be conducted. But that is outside the scope of
4376 the things that I worked on.

4377 *Mr. Crenshaw. Okay. Mr. Robinson, in your testimony
4378 you say that we must take racism head on, finally eliminate
4379 the racially ignorant, exploitative, and harmful components

4380 of Big Tech. And you -- we would do so by supporting
4381 legislation that removes liability if they do not remove
4382 content that causes irreparable harm now.

4383 Now, in principle, I already have objections to that,
4384 just because it is too vague. But that is not actually what
4385 I want you to address. I want you to address whether it
4386 would be really applied neutrally across the board, that
4387 general principle of that irreparable harm.

4388 *Mr. Robinson. Well, I don't know if we can absolutely
4389 get to neutrality, but we don't get to consequences when
4390 companies have blanket immunity. And right now, these
4391 companies have blanket immunity. And so, as a result, we
4392 don't allow regulators, enforcers, judges, and juries to be
4393 able to --

4394 *Mr. Crenshaw. I am more asking about the intent of
4395 your proposals, as opposed to --

4396 *Mr. Robinson. My intent of -- the intent of our
4397 proposals is to stop allowing Silicon Valley companies to
4398 skirt civil rights, and to stop allowing them to be able to
4399 decide when and where civil rights are enforced.

4400 *Mr. Crenshaw. Right. I mean, on the one hand, I am
4401 sympathetic to it, because I hate racism. And we recently
4402 had six people die in Wisconsin, possibly because of racism,
4403 because of posts that were on Facebook -- a 2015 racist post,
4404 a violent post, 2020 again, and now 6 people are dead.

4405 But would your -- would these proposals address that, as
4406 well?

4407 *Mr. Robinson. The proposals would remove the profit
4408 and growth incentive over safety, integrity, and security.
4409 And so it places a set of consequences on these platforms,
4410 and then gets us to a place where there is actually
4411 consequences.

4412 *Mr. Crenshaw. All right.

4413 *Mr. Robinson. Right now there are not consequences.
4414 They can come here and lie to you about transparency. They
4415 can come here and lie to you what they are doing to keep
4416 these companies safe. And they have -- and you all have no
4417 recourse.

4418 *Mr. Crenshaw. I understand --

4419 *Mr. Robinson. This has been happening for years --

4420 *Mr. Crenshaw. I understand. Thank you, Mr. Robinson.
4421 I appreciate your answers, and I just want to say a few
4422 things.

4423 One of the concerns we have is that it seems the
4424 advocates of censorship, or content management, or whatever
4425 we want to call it, they tend to want to censor in only one
4426 direction. They don't want to be neutral in their
4427 application of community standards.

4428 Second, bringing to light this fundamental question:
4429 Whose fault is it that human beings are horrible to one

4430 another? Whose fault is it that a bad person spreads lies or
4431 hate? Is it the medium of communication, or is it the person
4432 spreading it?

4433 This is a very fundamental question, because free speech
4434 is very messy. Our founders knew that when they wrote the
4435 First Amendment. It can result in all sorts of chaos, and
4436 pain, and hurt feelings, because the human race is indeed
4437 what it is.

4438 Well, let's be clear, that is a heck of a lot better
4439 than the alternative: this independent oversight committee
4440 being discussed with an elite, unaccountable few regulating
4441 what we see and what we don't. I don't want us to go down
4442 that path.

4443 And I want to be clear about something else.
4444 Republicans and Democrats do not agree on this issue. I have
4445 observed a clever strategy by the media and some of my
4446 colleagues, implying that we all agree, that we are all
4447 moving in the right direction towards the same thing. We are
4448 all mad at Big Tech. This is not really true. We have very
4449 different views of the problem. And, as the ranking member
4450 pointed out, one of the bills being considered today puts
4451 companies on the hook for any content that causes "severe
4452 emotional injury," which remains undefined and open to
4453 interpretation.

4454 It is fundamentally un-American that your hurt feelings

4455 should dictate my free speech. And I think the Democrat
4456 Party wants to censorship -- wants to censor based on vague
4457 interpretations of harmful speech and misinformation, which
4458 invariably means things they just disagree with. They can't
4459 legally infringe on the First Amendment, so bully Big Tech
4460 into doing it for you.

4461 *Mr. Doyle. The gentleman's time has expired.

4462 *Mr. Crenshaw. We can't go down this path. Thank you.
4463 I yield back.

4464 *Mr. Doyle. The chair now recognizes Mrs. Trahan for
4465 five minutes.

4466 *Mrs. Trahan. Thank you, Mr. Chairman. Thank you to
4467 all our witnesses.

4468 Ms. Haugen, just let me echo what all my colleagues have
4469 said: Thanks for your bravery, bringing to light so many
4470 important issues. I worked in tech, and I can't imagine that
4471 this has been easy for you.

4472 The papers you provided have shown that, when executives
4473 at Facebook and companies like Leggett make decisions about
4474 content moderation processes and algorithmic design, that the
4475 harms caused to users are real -- in many cases, devastating.
4476 It is especially true for our young users already on services
4477 like Instagram. And it is true for young girls, like my 7
4478 and 11-year-old daughters, who Facebook's internal plans
4479 identified as the company's next growth frontier.

4480 The fact that these companies view our children as
4481 expendable in their pursuit of profitability shows just how
4482 flawed the status quo is. Yet while these company run ads
4483 pleading for updated Internet regulations, everyone on this
4484 panel is aware that the goal of their multimillion-dollar
4485 lobbying efforts is the exact opposite.

4486 I recognize that bipartisanship can seem to be in short
4487 supply these days, like my colleague, Mr. Crenshaw pointed
4488 out. But if protecting our children cannot garner the
4489 support of Republicans and Democrats alike, I truly fear for
4490 our future.

4491 There are a number of pieces of legislation either
4492 introduced already or currently in the works that all of us
4493 should be able to get behind, especially when it comes to
4494 requiring transparency. To that end, I am the author of the
4495 Social Media Data Act, which would direct the FTC to issue
4496 guidance on how internal research, much like the research
4497 published in the Facebook Papers, along with a range of other
4498 internal company data, can be shared with academics in a way
4499 that protects privacy. That way, we can be informed by
4500 independent analysis of the full extent of harm that users
4501 like our children face when they open an app like Instagram.

4502 So in your experience, Ms. Haugen, what types of
4503 internal studies are already regularly performed?

4504 Do platforms mostly perform surveys and interviews, like

4505 we saw in the Facebook Papers, or do they also -- do they
4506 employ other forms of study, as well?

4507 *Ms. Haugen. I want to encourage you, when you talk
4508 about having data, to encourage that, in cases of aggregate
4509 data -- so it is not individually identifiable data -- they
4510 be made public. Because, for other companies, like Twitter,
4511 they have a firehose that is one-tenth of all the tweets.
4512 And there is probably 10,000 researchers in the world that
4513 hold Twitter accountable. So if you just send it to
4514 academics, you won't reach independent consultants like
4515 myself, and you will miss out on a huge opportunity.

4516 The second thing is what kinds of resources exist
4517 internally? You have presentations, you have large
4518 quantitative studies. These might be based on user data, or
4519 they might be literally surveys sent out to 50,000 people.
4520 And they do do small group studies, as well.

4521 *Mrs. Trahan. Terrific, I appreciate that. And so many
4522 of your comments have actually made some of our existing
4523 bills already stronger.

4524 You know, similarly, I am working on legislation right
4525 now that would create a new bureau at the FTC focused on
4526 platform oversight, and include an office of independent
4527 research facilitation. You know, researchers have several
4528 methods for proving causation, but the "gold standard" is
4529 randomly controlled trials, which is well understood for

4530 product safety across multiple industries.

4531 At Facebook were you aware of whether internal
4532 researchers were doing randomly controlled trials? And, if
4533 so, when in the product life cycle was that most likely to
4534 happen?

4535 *Ms. Haugen. Randomized trials happen all the time.
4536 They are usually called A/B trials. For example, in the case
4537 of removing likes off of Instagram, they ran a real A/B
4538 trial, where they randomly chose a number of users, and
4539 removed the likes to see if it -- and then surveyed them
4540 afterwards and said, you know, did this decrease social
4541 comparison, or did this decrease a variety of mental health
4542 harms. So they have the infrastructure to run those trials,
4543 they just haven't maybe ran them on as many things as the
4544 public would need -- would want to know.

4545 *Mrs. Trahan. So what do you think is the likelihood in
4546 the future of platforms regularly collaborating with
4547 independent researchers, you know, using institutional review
4548 boards and ethical best practices to design and run
4549 controlled trials?

4550 *Ms. Haugen. Unless you are legally mandate it, you
4551 will not get those. You just won't get them. Like,
4552 researchers have begged and begged and begged for very basic
4553 data. And, for example, a couple of months ago, after
4554 begging for years for a very small amount of data on the most

4555 popular links on Facebook, researchers accidentally caught
4556 that Facebook had missed -- had pulled different data, and
4557 then given it to them, which invalidated the Ph.D.'s of,
4558 probably, countless students.

4559 So we need legally-mandated ways to get data out of
4560 these companies.

4561 *Mrs. Trahan. Which becomes very important when these
4562 companies talk about creation of things like Instagram for
4563 Kids. So I appreciate that.

4564 I don't know how much time I am going to get to this
4565 next line of questioning. If I run out, I will submit my
4566 questions for the record, because I am so interested in your
4567 responses.

4568 But Mr. Robinson, you were one of the leaders of the
4569 Aspen Institute's Commission on Information Disorder, which
4570 recently issued a report that included suggestions for
4571 policymakers. One suggestion was that Congress require that
4572 platforms provide high-reach content disclosures, or lists of
4573 popular content. And my office is currently working on text
4574 to do just that, and we would love to connect with you.

4575 But for now, can you just explain why this type of
4576 disclosure is important, how it complements several of the
4577 proposals we are discussing today which aim to limit Section
4578 230 immunity when recommendation algorithms are involved?

4579 *Mr. Robinson. The Aspen Commission Institute's -- they

4580 are -- the proposals should be taken together, because we
4581 can't actually get to policy recommendations or new policies
4582 if we don't have more transparency.

4583 *Mrs. Trahan. Yes.

4584 *Mr. Robinson. And this actually gets to transparency
4585 around how these algorithms are functioning, how they are
4586 sort of moving content, and getting much more clear about all
4587 those things. And so that is one of the pieces in
4588 transparency that I think is really clear and essential to
4589 getting towards the next steps.

4590 *Mr. Doyle. The gentlelady's time has expired.

4591 *Mrs. Trahan. Thank you. Thank you, sir.

4592 *Mr. Doyle. Okay, last, but certainly not least, our
4593 gentleman from Pennsylvania.

4594 Mr. Joyce, you have five minutes.

4595 *Mr. Joyce. Thank you, Chairman Doyle and Ranking
4596 Member Latta, for holding this important hearing on holding
4597 Big Tech accountable.

4598 In light of what has happened over the past year, it is
4599 abundantly clear that this body needs to act on reforming
4600 Section 230 and reining in Big Tech. Recent reports have
4601 shown how far social media companies will go in order to
4602 maximize profit at the expense of consumers' well-being. It
4603 is disturbing to see this callous and harmful behavior from
4604 some of our largest companies.

4605 And personally, it worries me that it took a
4606 whistleblower coming forward for us to learn about these
4607 harmful effects that these products potentially and do often
4608 have.

4609 To take on the unchecked power of Big Tech in Silicon
4610 Valley, my colleagues and I have proposed a comprehensive
4611 package that will hold Big Tech accountable and work to
4612 protect consumers and, actually, most importantly, our
4613 children. I implore the majority to take up these crucial
4614 pieces of legislation, and to do it now.

4615 Ms. Frederick, conservatives, especially in my district,
4616 feel as though their voices are being silenced by content
4617 regulators in Silicon Valley. How can we broadly ensure that
4618 this doesn't happen?

4619 *Ms. Frederick. So what really hasn't been talked about
4620 much here is the fact that it is not even just about
4621 individual users, or individual accounts, or individual
4622 pieces of content. We are talking about market dominance
4623 that translates to Americans' ability to access information.

4624 You look at something like Amazon Web Services, which --
4625 you know, Google, Apple, they took down Parler. Okay,
4626 whatever, you can get it on the desktop. People weren't
4627 extremely fussed about that. But then, within 24 hours, when
4628 Amazon Web Services, at the cloud hosting infrastructure
4629 level, pulled the plug on Parler entirely, a whole slew,

4630 litany of conservative users were silent, lights out, at the
4631 snap of a finger. Insane.

4632 So, in my mind, we absolutely need to use that First
4633 Amendment standard so things can't happen to the content
4634 moderation issue to -- we need to make sure we increase
4635 transparency, like we talked about. Let's have some
4636 legislative teeth here. Let's incentivize those quarterly or
4637 even biannual reports, when these companies report on what
4638 they are actually doing, their content moderation decisions,
4639 and the inconsistent, not-even-handed application of them.
4640 And then, just frankly, remove liability protections when
4641 these companies censor based on political views. Again,
4642 strip that immunity when it is abused.

4643 And then finally, I think there are reforms that exist
4644 outside of Section 230: civil society, grassroots. We need
4645 to get invigorated about this. Let's use that anti-critical
4646 race theory model to gin up the population when these abuses
4647 harm our children, which they are, which has been proven. So
4648 that civil society is huge.

4649 And states. States can wield power here, as well. And
4650 I think a lot of good ideas have been put forward in those
4651 labs of democracy, and we should amplify those ideas and
4652 promote them, as conservatives, as well.

4653 *Mr. Joyce. And I agree with you that First Amendment
4654 rights must be amplified, and must be maintained.

4655 Additionally, we see the harmful impact that social
4656 media is having on children, and you recognize this is a
4657 significant concern of mine and my colleagues. The potential
4658 lasting psychological impacts that come with endless content,
4659 and are readily accessible to so many users -- Ms. Frederick,
4660 can you talk about the information that you exposed, and how
4661 you feel we, as Members of Congress, must be able to further
4662 utilize that?

4663 *Ms. Frederick. So I wasn't the one who exposed any of
4664 this information. I just read it in the paper, like most
4665 people.

4666 However, what you do learn -- what I learned from
4667 working at this company -- was they are concerned about
4668 growth at all costs, which translates to bottom line at all
4669 costs, which translates to PR problems and brand and
4670 reputation concerns.

4671 So they should focus on the brand and reputation
4672 concern, and recognize that these children, when they have
4673 these devices in their hands, they do not yet have fully
4674 formed consciences to deal with the effects that that device
4675 is admitting -- emitting.

4676 So I think that people need to rethink the way that
4677 these devices impact children. We need to rethink whether or
4678 not children can even have these devices. As was mentioned
4679 earlier, famously, tech oligarchs, they don't give their kids

4680 these devices. There is a reason for that, and that should
4681 be all you need to know.

4682 *Mr. Joyce. Ms. Haugen, can you, as the individual who
4683 did this, can you comment on how this affects -- move forward
4684 in being able to protect our children?

4685 *Ms. Haugen. Which affects, the things that she just
4686 described?

4687 *Mr. Joyce. Yes, exactly, what was just described by
4688 Ms. Frederick.

4689 *Ms. Haugen. We have huge opportunities to protect our
4690 children in more effective ways. We need more transparency
4691 on children who are exposed to these harms. We need to know
4692 what Facebook is actually doing to protect kids. They have
4693 been using the efforts that they have done so far, like --
4694 things like the -- they have -- a help center that comes up
4695 occasionally, they have promoted that as if it is a huge
4696 intervention, but only hundreds of kids see it per day. So
4697 we need transparency. We need, like, a parent board that can
4698 weigh in on these decisions, and we need to have independent
4699 academic researchers have enough access that we can know what
4700 the effects are on the -- our kids. Until we have those
4701 things, we are not going to be able to protect children
4702 adequately.

4703 *Mr. Joyce. Thank you --

4704 *Mr. Doyle. The gentleman's time has expired.

4705 *Mr. Joyce. I see my time has expired. Thank you, Mr.
4706 Chair.

4707 *Mr. Doyle. So this concludes the witness testimony and
4708 questions for our first panel. I want to thank all of our
4709 witnesses.

4710 Ms. Haugen, when Congress finally acts -- I won't say if
4711 Congress finally acts, I will say when -- you will be chiefly
4712 responsible for whatever happens here, through the grave step
4713 that you took to come forward and open up the door, and shine
4714 a light on what was really happening here. So I thank you
4715 for being here.

4716 Mr. Robinson, Ms. Frederick, Mr. Steyer, all of you,
4717 thank you so much. Your testimony and your answering of our
4718 questions have been very helpful. We are committed to
4719 working in a bipartisan fashion to get some legislation done.

4720 So with that I will dismiss you with our thanks and
4721 gratitude, and we are going to bring the second panel in.
4722 Thank you.

4723 [Pause.]

4724 *Mr. Doyle. Welcome, and we are ready to introduce our
4725 witnesses for today's second panel.

4726 Are we good?

4727 Ms. Carrie Goldberg, owner of C.A. Goldberg; Mr. Matthew
4728 Wood, vice president, policy and general counsel, Free Press
4729 Action; Mr. Daniel Lyons, professor and associate dean of

4730 academic affairs, Boston College Law School, non-resident
4731 senior fellow, American Enterprise Institute; Mr. Eugene
4732 Volokh, Gary T. Schwartz, distinguished professor of law,
4733 UCLA School of Law; the Honorable Karen Kornbluh, director of
4734 digital innovation and democracy initiative and senior fellow
4735 of the German Marshall Fund of the United States; and Dr.
4736 Mary Anne Franks, professor of law, and Michael R. Klein
4737 distinguished scholar, chair, University of Miami School of
4738 Law, president and legislative tech policy director, Cyber
4739 Civil Rights Initiative.

4740 Welcome, all of you, and thank you so much for being
4741 here. We want to look forward to your testimony.

4742 We will recognize each of you for five minutes to
4743 provide your opening statement.

4744 There is a lighting system there, in front of you. You
4745 will see lights. It will start initially green. It will
4746 turn yellow when you have a minute left. And when it turns
4747 red, it is time to wrap up your testimony.

4748 So we will get started right away.

4749 Ms. Goldberg, you are recognized for five minutes.

4750

4751 STATEMENT OF CARRIE GOLDBERG, ESQ., OWNER, C.A. GOLDBERG LAW
4752 FIRM, PLLC; MATTHEW F. WOOD, VICE PRESIDENT OF POLICY AND
4753 GENERAL COUNSEL, FREE PRESS ACTION; HON. KAREN KORNBLUH,
4754 DIRECTOR, DIGITAL INNOVATION AND DEMOCRACY INITIATIVE, AND
4755 SENIOR FELLOW, THE GERMAN MARSHALL FUND OF THE UNITED STATES;
4756 DANIEL A. LYONS, PROFESSOR AND ASSOCIATE DEAN FOR ACADEMIC
4757 AFFAIRS, BOSTON COLLEGE LAW SCHOOL, NONRESIDENT SENIOR
4758 FELLOW, AMERICAN ENTERPRISE INSTITUTE; EUGENE VOLOKH, GARY T.
4759 SCHWARTZ DISTINGUISHED PROFESSOR OF LAW, UCLA SCHOOL OF LAW;
4760 AND MARY ANNE FRANKS, J.D., D.PHIL., PROFESSOR OF LAW AND
4761 MICHAEL R. KLEIN DISTINGUISHED SCHOLAR CHAIR, UNIVERSITY OF
4762 MIAMI SCHOOL OF LAW

4763

4764 STATEMENT OF CARRIE GOLDBERG

4765

4766 *Ms. Goldberg. Good afternoon, Chairman Doyle, Ranking
4767 Member Latta, and each member of this committee. My name is
4768 Carrie Goldberg. I stand for the belief that what is illegal
4769 offline should be illegal online.

4770 I founded my law firm to represent victims of
4771 catastrophic injuries. We sue on behalf of victims for
4772 stalking, sexual assault, and child exploitation. In most of
4773 my cases, well over 1,000 now, my clients' injuries were
4774 facilitated by tech companies. And I have to tell you, the
4775 most miserable part of my job is telling people who come to

4776 me for help, who have suffered horrific nightmares, that I
4777 can't help them.

4778 Congress passed a law in the mid-1990s that takes away
4779 their right to justice. We can't sue, because Section 230
4780 lets tech companies get away with it. Back then, lawmakers
4781 said that removing liability for moderating content would
4782 incentivize these young tech platforms to be Good Samaritans,
4783 and keep bad content and materials out. We know that is not
4784 what happened.

4785 I want to tell you three stories. She is 11 years old.
4786 He is 37. They both are on the site Omegle. The banner up
4787 top says, "Talk to strangers.'" And Omegle matches the two
4788 for a video chat. The man comforts her and her 11-year-old
4789 loneliness. At first he wants to see her smile. And then he
4790 asks to see another body part. And another. And another.
4791 And she does protest. He tells her, "You are free to stop,
4792 but I would have to share this material with the police,
4793 because you are breaking the law, you are committing child
4794 pornography.'"

4795 This crime against this child goes on for three years.
4796 He makes her perform for he and his friends on a regular
4797 basis. He forces her back onto Omegle to recruit more kids.

4798 Ten days ago we filed a lawsuit on behalf of this young
4799 girl. We argued that Omegle is a defectively designed
4800 product. It knowingly pairs adults and children for video

4801 sex chats. Now, Omegle is going to tell us that it was her
4802 fault, and that it has no duty to manage its platform,
4803 because Section 230 says it doesn't have to.

4804 A terrified young man enters my office. His ex-
4805 boyfriend is impersonating him on the hookup app Grindr. "He
4806 has sent hundreds of strangers to my home and my job, he
4807 tells them I have rape fantasies and that, if I protest, it
4808 is part of the game.''

4809 Matthew says he has done everything. He has gotten an
4810 order of protection. He has reported the abuse to the police
4811 10 times. He has flagged the profiles 50 times to Grindr,
4812 and they have done nothing. So we get a restraining order
4813 against Grindr to ban this malicious user. And Grindr
4814 ignores it. The strangers keep coming, following Matthew
4815 into the bathroom at work, waiting for him in the stairwell,
4816 at his apartment building. Over 1,200 men come.

4817 In her order, throwing Matthew's case out of court, the
4818 judge said Grindr had a good faith and reasonable belief that
4819 it was under no obligation to search for and remove
4820 impersonating profiles. That good faith and reasonable
4821 belief comes from Section 230. It is actually used to
4822 justify why they don't have to moderate content, exactly the
4823 opposite intention of what Congress intended.

4824 So the men keep coming for another 10 months after we
4825 brought our case, as many as 23 times a day. And Grindr knew

4826 the whole time.

4827 Over the past six months I have met with seven families,
4828 each whose child was killed because of purchasing one
4829 fentanyl-laced pill. So when I say catastrophic injuries, it
4830 is not hyperbole, and the traps are set by Internet platforms
4831 which have profited beyond any summit of wealth and power in
4832 the history of the universe.

4833 Now, I am not arguing to end the Internet, or any of
4834 these companies, or to limit free speech. The nightmares my
4835 clients face are not speech-based, and we must distinguish
4836 between hosting defamatory content versus enabling, profiting
4837 off of criminal conduct. And for hundreds of years, our
4838 civil courts are how everyday people have gotten justice
4839 against individuals and companies who have caused them
4840 injuries. It is the great equalizer, and that basic right is
4841 gone.

4842 We have a mess here that one Congress created, but that
4843 this Congress can fix. And I look forward to more questions
4844 and, hopefully, to talk about some of my ideas for reform.
4845 Thank you.

4846 [The prepared statement of Ms. Goldberg follows:]

4847

4848 *****COMMITTEE INSERT*****

4849

4850 *Mr. Doyle. Thank you very much.

4851 Mr. Wood, you are recognized for five minutes.

4852

4853 STATEMENT OF MATTHEW F. WOOD

4854

4855 *Mr. Wood. Thank you, Chairmen Doyle and Pallone,
4856 Ranking Members Latta and McMorris Rodgers. Thank you for
4857 having me back.

4858 And Chairman Doyle, I must especially thank my hometown
4859 congressman for your leadership, and your kind attention to
4860 my input over the years, if this is the last time I have the
4861 honor to appear before you as chair.

4862 Today's hearing proposes holding Big Tech accountable
4863 for what it describes as targeted reforms to Section 230 in
4864 four bills. That framing is understandable, in light of
4865 testimony you have just heard -- literally, just heard --
4866 from others here about the harms that platforms allow or
4867 cause.

4868 Free Press Action has not endorsed or opposed any of
4869 these bills. We see promising concepts in them, but some
4870 cause for concern, too. That is because Section 230 is a
4871 foundational and still fully necessary law. It benefits not
4872 just tech companies large and small, but the hundreds of
4873 millions of people who use their services and share ideas
4874 online. That is why Congress must strike the right balance,
4875 preserving the powerful benefits of this law, but considering
4876 revisions to better align court outcomes with the statute's
4877 plain text.

4878 Section 230 lowers barriers to people posting their own
4879 content, ideas, and expression, without needing the pre-
4880 clearance platforms would demand if they could be liable for
4881 everything users say. This law protects platforms from being
4882 treated as publishers of other parties' information, yet also
4883 permits platforms to make content moderation decisions while
4884 retaining that protection.

4885 Section 230 thus encourages the open exchange of ideas,
4886 but also takedowns of hateful and harmful material. Without
4887 those protections, we would risk losing moderation and risk
4888 chilling expression, too. That risk is especially high for
4889 Black and Brown folks, LGBTQ-plus people, immigrants,
4890 religious minorities, dissidents, and all ideas that could be
4891 targeted for suppression by powerful people willing and able
4892 to sue, just to silence statements they don't like.

4893 But as you have heard today, members of those same
4894 communities can suffer catastrophic harms online and off from
4895 platform conduct, too. It is not just in the courtroom that
4896 marginalized speakers must fear being silenced, harassed, and
4897 harmed. It is in the chat room, too, in social media,
4898 comment sections, and other interactive apps.

4899 Repealing Section 230 outright is a bad idea, and
4900 wouldn't fix all these problems, either. We need privacy
4901 laws that protect against abuse of data practices, and other
4902 positive civil rights protections applied to platforms.

4903 Without 230, there might be tort remedies or criminal
4904 sanctions in a few of cases -- for -- in a few cases for
4905 underlying content, but no remedy for amplification if
4906 underlying speech is protected by the First Amendment, and
4907 also not tortious.

4908 Yes, while the First Amendment is a check on claims that
4909 speech incited another's violent act, violent and wrongful
4910 acts, and a constraint on speech torts like defamation too,
4911 those torts are clearly not, per se, unconstitutional.

4912 Section 230's current text should allow injured parties
4913 to hold platforms liable for such platforms' own conduct, and
4914 even for content platforms themselves create, when that is
4915 actionable, too. And courts have let some suits go forward
4916 for platforms posing their own discriminatory questions, for
4917 layering content over user posts that encourage those users
4918 to drive at reckless speeds, or taking part in transactions
4919 in ways beyond letting third-party sellers merely post their
4920 wares.

4921 But most courts have read it far more broadly, starting
4922 in *Zeran v. AOL*, which held that the prohibition on publisher
4923 liability precluded distributor liability, too, even once a
4924 platform has actual knowledge of the unlawful or harmful
4925 character of material it distributes. People ranging from
4926 Justice Thomas to Professor Jeff Kosseff agree this is not
4927 the only plausible reading of Section 230's plain text.

4928 When new cases call on courts to interpret the statute,
4929 decisions like Zeran prevent plaintiffs from testing
4930 liability for platforms' conduct, not just their decision to
4931 host others' content. That is why we are interested in bills
4932 like Representative Banks' H.R. 2000, or the Senate's
4933 Bipartisan PACT Act. They would clarify the meaning of 230's
4934 present text by reversing Zeran, or otherwise allows suits
4935 for platform conduct, including continued distribution of
4936 harmful content, once platforms have actual knowledge of the
4937 harm it causes.

4938 While bills like yours, JAMA and PADAA, take aim at that
4939 same laudable goal of deterring harmful amplification, we are
4940 concerned to some degree about legislating the technology in
4941 this way. It could lead to hard questions about definitions
4942 and exemptions, rather than a focus on providers' knowledge
4943 and liability.

4944 We don't want to chill amplification that is benign or
4945 beneficial, but also don't want to prevent accountability
4946 when platforms' actions cause harm, even in the absence of
4947 personalized recommendations, or outside of carve-outs for
4948 important subjects like civil rights.

4949 The fact that a platform receives payment for publishing
4950 or promoting content could be highly relevant in determining
4951 its knowledge and culpability for any distinct harm that
4952 distribution causes. But monetizing content or using

4953 algorithms should not automatically switch 230 off.

4954 Unfortunately, the SAFE TECH Act tips even further
4955 towards those chilling effects, we would fear, by risking any
4956 broad change to 230, and it risks those protections any time
4957 a platform receives any payment at all, by dropping the
4958 liability shield any time a platform is served with a request
4959 for injunctive relief.

4960 We look forward to continuing this conversation on these
4961 important ideas, and your questions today, and the
4962 legislative process going forward.

4963 [The prepared statement of Mr. Wood follows:]

4964

4965 *****COMMITTEE INSERT*****

4966

4967 *Mr. Doyle. Thank you, Mr. Wood.

4968 Ambassador Kornbluh, you have five minutes.

4969 *Ms. Kornbluh. Thank you, Chairman Doyle, Ranking
4970 Member Latta, Committee Ranking Member Rodgers, and committee
4971 members for this opportunity to testify.

4972 *Mr. Doyle. Oh, I am sorry, could you turn your mike
4973 on?

4974 *Ms. Kornbluh. Is that working? Does that work? Okay,
4975 I will start again.

4976

4977 STATEMENT OF KAREN KORNBLUH

4978

4979 *Ms. Kornbluh. Thank you, Chairman Doyle, Ranking
4980 Member Latta, and Committee Ranking Member Rodgers, and
4981 committee members for the opportunity to testify.

4982 I am going to stress three points today: first, that
4983 the Internet has changed dramatically since the rules of the
4984 Internet were written; Section 230(c)(1) must be clarified,
4985 or we will lose protections and rights that we take for
4986 granted; and three, it is also long past time for regulations
4987 to be updated to limit harms and protect free expression.

4988 Section 230 was critically important in allowing the
4989 Internet to flourish. Section 230(c)(2) remains essential to
4990 encouraging service providers to screen and filter dangerous,
4991 third-party content. However, the Internet is no longer the
4992 decentralized system of message boards it was when 230 was
4993 enacted. Social media companies differ in scale from 20th
4994 century publishers. As we heard earlier, Facebook has more
4995 members than most major religions.

4996 But more important, their design makes them an entirely
4997 different animal. They offer the most powerful advertising
4998 and organizing tools ever created. They use vast amounts of
4999 personal data to tailor the information users see, and they
5000 are not transparent to the public or users. And meanwhile,
5001 our economy, politics, and society have moved online in ways

5002 never imaginable. Facebook and Google now account for an
5003 astonishing half of advertising dollars, and teenagers may
5004 spend an average of three to four hours a day on Instagram.

5005 Our elections occur largely online, beyond public view.

5006 Significant harms flowing from the status quo are
5007 evident from a few examples. A COVID conspiracy film was
5008 shown more than 20 million times in only 12 hours before it
5009 was taken down by all major platforms. Families of victims
5010 of terrorist attacks allege terrorists use platforms to
5011 facilitate recruitment and commit terrorism. And the
5012 Facebook Papers show the deliberate use of algorithms to lead
5013 young girls to content promoting anorexia. Unless Section
5014 230 is clarified, we will grow increasingly less safe and
5015 less free.

5016 Broad application of Section 230(c)(1) has precluded
5017 incentives for more responsible behavior by large platforms.
5018 As revealed in the Facebook Papers, the company rejected
5019 employee ideas for changing design flaws that would have
5020 limited algorithmic harms.

5021 In addition, outdated rules pose a national security
5022 risk when foreign agents and terrorists can use the
5023 platform's tools to recruit, harass, and organize. That is
5024 why judges in terrorist cases, civil rights organizations,
5025 and children's safety groups are asking Congress to act.

5026 The bills under consideration by this committee would

5027 rightly peel back immunity when social media platforms
5028 promote the most egregious types of illegal content that
5029 produce harms. H.R. 5596, The JAMA Act, in particular, would
5030 incentivize platforms to reduce the risk of potential harms
5031 to children, victims of harassment and stalking, and
5032 violence. H.R. 2154 would incentivize them to reduce the
5033 risk that international terrorists use their sites to
5034 organize.

5035 And just third point I would like to stress, regulations
5036 also have to be updated. It is not enough to have the
5037 liability. There is not always a plaintiff with standing to
5038 sue, even when there is a societal harm. And companies lack
5039 guidance about what is expected of them. So regulatory
5040 agencies should provide clarity.

5041 The bipartisan Honest Ads Act, for example, would
5042 require the same transparency for online campaign ads as are
5043 required on broadcast TV. This should be extended to include
5044 know-your-customer provisions, so that dark money groups are
5045 unmasked.

5046 The Federal Trade Commission should require data to shed
5047 light on large platform practices. The equivalent of, like,
5048 a black box flight data recorder that the National
5049 Transportation Safety Board gets when an airplane crashes, we
5050 don't have that kind of data after an election, for example.
5051 In 2016, the only reason we knew what happened in that

5052 election was because the Senate Intelligence Committee had
5053 the platforms fork over the data, and we learned about the
5054 targeting of African-Americans. We -- but the point is we
5055 shouldn't need a whistleblower to access data.

5056 In addition, regulators could oversee platforms
5057 developing best practice frameworks for preventing illegal
5058 and egregiously tortious activity, and that courts could
5059 refer to in deciding if a company was negligent, as my
5060 colleague, Ellen Goodman, has proposed. This effort could be
5061 made consistent with proposals in the EU Draft Digital
5062 Services Act.

5063 Mr. Chairman, it is essential to update rules as the
5064 Internet continues to change, and more of our society moves
5065 online. Otherwise, key protections our country takes for
5066 granted may become irrelevant. Thank you.

5067 [The prepared statement of Ms. Kornbluh follows:]

5068

5069 *****COMMITTEE INSERT*****

5070

5071 *Mr. Doyle. I thank you.

5072 Mr. Lyons, you are now recognized for five minutes.

5073 [Pause.]

5074 *Mr. Doyle. You may need to unmute, if you haven't
5075 already.

5076 [Pause.]

5077 *Mr. Doyle. Yes, you need to unmute, Mr. Lyons.

5078 [Pause.]

5079 *Mr. Doyle. We will move on. Okay, we are going to go
5080 to Mr. Volokh.

5081 You are recognized for five minutes, and we will come
5082 back for Mr. Lyons.

5083 [Pause.]

5084 *Mr. Doyle. Can you unmute also, sir?

5085 [Pause.]

5086 *Mr. Doyle. It looks like your microphone is not
5087 connected, we are being told.

5088 Want to go to Dr. Franks?

5089 Okay, we are going to go to Dr. Franks, while our two
5090 remote witnesses get their technical issues fixed.

5091 So you are recognized for five minutes.

5092

5093 STATEMENT OF MARY ANNE FRANKS

5094

5095 *Dr. Franks. You have heard an extensive account of the
5096 nuances and complexities of the Section 230 debate today, and
5097 it is incredibly easy to get lost in them, and to let the
5098 perfect be the enemy of the good.

5099 You have heard in prior testimony that so much
5100 irreparable damage has been done already because of tech
5101 industry impunity, but Congress has this unique and rare
5102 opportunity right now to avoid future harm. And it is
5103 vitally important that we keep the future in mind as we are
5104 thinking through legislation and reform, because any
5105 solutions that we have for today need to be able to address
5106 our current crises of disinformation, of exploitation, of
5107 discrimination, as well as being nimble enough to respond to
5108 the evolving changes and challenges of the future.

5109 But at the most fundamental level, the problem with the
5110 tech industry is the lack of incentive to behave responsibly.
5111 Preemptive immunization from liability that is provided by
5112 Section 230 means that the drive to create safer or healthier
5113 online products and services simply cannot compete with the
5114 drive for profits. As long as tech platforms are able to
5115 enjoy all the benefits of doing business without any of the
5116 burdens, they will continue to move fast, and break things,
5117 and leave average Americans to pick up the pieces.

5118 Section 230(c)(1) -- and that is the provision that is
5119 primarily responsible for our current dystopian state of
5120 affairs -- creates what economists call a moral hazard, when
5121 an entity is motivated to engage in increasingly risky
5122 conduct because it does not bear the costs of those risks.
5123 The devastating fallout of this moral hazard is all around
5124 us, an online ecosystem that is flooded with lies, extremism,
5125 racism, misogyny, fueling offline harassment and violence.

5126 One of the reasons that the Section 230 debate is so
5127 challenging is that it is backwards. The question should not
5128 be what justifies departing from the status quo of Section
5129 230. The question should be whatever allowed the status quo
5130 to exist in the first place. We should be demanding an
5131 explanation for the deferential and preferential treatment of
5132 an industry that has wreaked havoc on so many lives,
5133 reputations, and on democracy itself.

5134 Every one of us in this room right now would face
5135 liability if we harmed other people. And that is not only if
5136 we caused it directly, and it is not only if we acted
5137 intentionally. We can also be held accountable if we
5138 contributed to harm, and if we acted recklessly or
5139 negligently. That is also true for businesses. Store owners
5140 can be sued for not mopping up spills. Car manufacturers can
5141 face liability for engines that catch on fire. Hospitals can
5142 be sued for botched operations. Virtually every person and

5143 every industry faces the risk of liability if they engage in
5144 risky conduct that causes harm. That is good, and it is
5145 right, because it avoids the creation of moral hazards.

5146 The possibility of liability forces people and
5147 industries to take care, to internalize risk, and to prevent
5148 foreseeable harm. There are those Section 230 defenders who
5149 will say that the tech industry is different, that it is not
5150 like any of these other industries because it is about
5151 speech, and speech is special, and it deserves special rules.
5152 There are two important responses to this.

5153 One, the tech industry is not the only speech-focused
5154 industry. Speech is the core business of newspapers, radio
5155 stations, television companies, book publishers, and book
5156 distributors. Speech is integral to many workplaces,
5157 schools, and universities, and yet all of these entities can
5158 be held liable when they cause or promote, and even, in some
5159 cases, when they fail to prevent harm. None of these
5160 industries or entities enjoys anything like the blanket
5161 immunity that is granted to the tech industry. The potential
5162 for being held responsible for harm has not driven any of
5163 these industries into the ground, or eradicated free
5164 expression in these enterprises.

5165 Second, 230's immunity currently is evoked to protect
5166 far more than speech. People use the Internet to do a wide
5167 variety of things. They do it to shop for dog leashes. They

5168 sell stolen goods. They pay their bills. They renew their
5169 driver's licenses. The text of Section 230 allows
5170 intermediaries to be immunized not only for speech provided
5171 by others, but for "information." This has allowed tech
5172 platforms to use Section 230 to absolve themselves of
5173 responsibility for virtually everything that individuals do
5174 online, a protection that goes far beyond anything the First
5175 Amendment would or should protect.

5176 The current interpretation of Section 230 immunity is an
5177 unjustifiable anomaly that flies in the face of subtle legal
5178 and moral principles of collective responsibility. Three
5179 changes are necessary to effectively address this.

5180 One, Section 230's legal protections should be limited
5181 to speech, not information, a recommendation that is
5182 reflected in the SAFE TECH Act.

5183 Two, as many of the reform proposals before this
5184 subcommittee suggest in some form, those protections should
5185 not extend to speech that an intermediary directly
5186 encourages, solicits, or profits from.

5187 And finally, Section 230's protections should not be
5188 available to intermediaries that exhibit deliberate
5189 indifference to unlawful content.

5190 These are the essential steps necessary to change the
5191 perverse incentive structure of the tech industry that exists
5192 today. Thank you.

5193 [The prepared statement of Dr. Franks follows:]

5194

5195 *****COMMITTEE INSERT*****

5196

5197 *Mr. Doyle. They said we are okay. We have talked to
5198 the floor.

5199 Thank you very much.

5200 [Pause.]

5201 *Mr. Doyle. So we have votes on the floor.

5202 What is that?

5203 Yes, we are going to check and see if we have any
5204 Republicans on remote, because I am willing to stay and get
5205 the last two done.

5206 [Pause.]

5207 *Mr. Doyle. Okay, we are going to take a recess, and we
5208 will be back right after our votes. Okay? Sorry about that.

5209 [Recess.]

5210 *Mr. Doyle. Welcome back, everyone. Thank you for your
5211 patience.

5212 We are now going to recognize Mr. Volokh? Yes.

5213 Mr. Volokh, you are recognized for five minutes for your
5214 opening statement.

5215 [Pause.]

5216 *Mr. Doyle. Please unmute yourself if you are muted.

5217 *Mr. Volokh. Sorry. Rookie mistake. Can you hear me
5218 now?

5219 *Mr. Doyle. We can hear you?

5220 *Mr. Volokh. Can you pull up the -- can someone pull up
5221 the PowerPoints, please?

5222 *Mr. Doyle. There we go.

5223 *Mr. Volokh. All right.

5224 *Mr. Doyle. -- can hear you.

5225 *Mr. Volokh. Okay. I am sorry, are the PowerPoints up,
5226 by any chance?

5227 [Pause.]

5228 *Mr. Doyle. I think our staff is putting it up, so
5229 let's just hold on a second here.

5230 *Mr. Volokh. Oh, okay.

5231 [Pause.]

5232 *Mr. Doyle. Okay, Mr. Volokh, we are going to get
5233 started. We are still trying to get that up, but we need
5234 to --

5235 *Mr. Volokh. Understood.

5236 *Mr. Doyle. You can start your testimony.

5237 *Mr. Volokh. Absolutely.

5238

5239 STATEMENT OF EUGENE VOLOKH

5240

5241 *Mr. Volokh. Thank you so much for inviting me. It is
5242 a great pleasure to -- and a great honor to be asked to
5243 testify here.

5244 I was asked to be technocratic here, just to talk about
5245 the particular language of some of the bills, and identify
5246 perhaps some of the things that may not be obvious about
5247 them.

5248 I am going to start with the Justice Against Malicious
5249 Algorithms Act. And one important point to think about it is
5250 that it basically -- it creates a strong disincentive for any
5251 kind of personalized recommendations that a service would
5252 provide, because it strips immunity for recommending
5253 information, if the provider -- could I see those, please?

5254 [Slide]

5255 *Mr. Volokh. If the provider knew, or should have known
5256 it was making a personalized recommendation, and such
5257 recommendation materially contributed to physical or severe
5258 emotional injury.

5259 So what that means is there will be a huge disincentive
5260 for YouTube, Twitter, those kinds of entities, from giving
5261 recommendations based on information about you, about your
5262 location, about your past search history, because it might be
5263 worried that the information is libelous, or contains maybe

5264 alleged health misinformation, what have you.

5265 The incentive, instead, is to give you the generic
5266 recommendations, so for generally popular material, not
5267 personalized material, or to recommend big business-produced
5268 material, because that is a little bit more likely to be
5269 safe, and more likely to provide a compensation for the
5270 platform if there is a lawsuit.

5271 So the consequence is, basically, Hollywood and
5272 mainstream media would win, and user-generated content would
5273 lose, in that if some creator is putting up some things that
5274 lots of people like, and the platform might be inclined to
5275 recommend, they will be no longer inclined to recommend it,
5276 once they are subject to that kind of liability. You know
5277 you can think that is good or bad, if -- depending on what
5278 you think about the merits of user-generated content. But I
5279 do think that will be a consequence.

5280 Can I have the next slide, please?

5281 [Slide]

5282 *Mr. Volokh. So now I am going to turn to the
5283 Preservation of Constitutionally Protected Speech Act. And
5284 the first thing about it, which I think is probably not a
5285 surprise, is simply that it clearly authorizes state laws
5286 banning political discrimination. Right now it may be that
5287 those laws are preempted by Section 230(c)(2), which gives
5288 platforms the ability -- or at least can be read as giving

5289 platforms the ability -- to block any material they find
5290 objectionable. This modification would allow states, if they
5291 want to ban political discrimination by platforms, to do so
5292 without a Section 230 problem. There might be still an
5293 interesting First Amendment problem there, it is a hard
5294 question, but it would at least remove this Section 230
5295 obstacle to those kinds of laws that require platforms to
5296 treat all opinions equally.

5297 Next slide, please.

5298 [Slide]

5299 *Mr. Volokh. Another thing about the statute is --
5300 about the bill is it would strip away immunity when an
5301 information content provider utilizes an algorithm to amplify
5302 a promoter's suggested content to a user, unless the user
5303 knowingly and willfully selects an algorithm to display such
5304 content.

5305 Now, all suggestions stem from algorithms. Even
5306 recommend the most popular thing, that is an algorithm.
5307 Recommend the most recently posted thing, that is an
5308 algorithm. Recommend a random thing, that is an algorithm.
5309 So the real question is what it would take for a platform to
5310 comply with this knowing and willful selection requirement.

5311 If a clickwrap, something like, "I agree that this will
5312 be selected by an algorithm," would be enough to comply with
5313 this, then, in that case, this -- the bill wouldn't do much

5314 harm, although I am not sure it would do much good, just to
5315 require everybody to click an extra time to agree to the
5316 algorithm.

5317 On the other hand, if it requires something more, some
5318 explanation, or some array of choices available to users,
5319 that could be a really big problem. Because again, computers
5320 can't work without algorithms. So this would, basically,
5321 mean that there are no recommendations that platforms can
5322 supply, or what they -- there would be all this litigation
5323 about what counts as knowing and willful selection.

5324 Next slide, please.

5325 [Slide]

5326 *Mr. Volokh. The third major feature of the Preserving
5327 Constitutionally Protected Speech Act is that it would
5328 require an appeals process and a transparency requirement.
5329 And there is a lot to be said for the value of transparency
5330 requirements, even imposed in big businesses, when the
5331 business is so central, as many platforms are, to American
5332 political life.

5333 At the same time, a lot depends on just how transparent
5334 it has to be. So the requirement is that the company clearly
5335 state why content was removed. How clear is clear? What if
5336 it says, "Well, we think it is hateful," and somebody says,
5337 "It is not hateful at all. Why are you saying that?"
5338 "Well, we say it is hateful." Is that clear enough?

5339 What if they say it is pornographic, and someone says,
5340 "It is not pornography, it is art.'" Is that clear enough?

5341 That is going to be the key question under this bill:
5342 What counts as clearly stating, what counts as a reasonable
5343 and user-friendly appeals process. It is not like there are
5344 any precedents defining the phrase "appeals'" -- "user-
5345 friendly.'" That is not a legal term.

5346 Let's move on to the next slide, if I -- if we could,
5347 please.

5348 [Slide]

5349 *Mr. Volokh. The SAFE TECH Act, I wanted to say a few
5350 things about it, and then step.

5351 One is that there is no immunity under the Act if the
5352 provider has accepted payment to make speech available, or
5353 has created --

5354 [Audio malfunction.]

5355 *Mr. Volokh. -- in the creation of the speech. That,
5356 basically, means that paid hosting services would be stripped
5357 of immunity. So the only kinds of hosting services like
5358 blogging softwares, Amazon Web Services, those kinds of
5359 things, they wouldn't be able to charge, or else they would
5360 be liable. You could still have free services that are
5361 advertising --

5362 [Audio malfunction.]

5363 *Mr. Volokh. I am not sure that is necessarily a good

5364 thing to require, but that is what the law would require.

5365 It would also mean that a company -- YouTube, for
5366 example -- would be liable for anything posted by creators
5367 funded by revenue from their streams. So any -- YouTube
5368 shares advertising revenue with creators. It would be liable
5369 in that kind of situation. Again, I am not sure that that is
5370 a good idea. It may not be intentional. It may be that it
5371 was only aimed at advertising, but it is not so limited.

5372 Next slide.

5373 *Mr. Doyle. Mr. Volokh, can you wrap up your testimony?

5374 *Mr. Volokh. Yes, absolutely, I am sorry. The clock
5375 isn't on the screen.

5376 *Mr. Doyle. You are a minute-and-a-half over.

5377 *Mr. Volokh. I am sorry. Let me just close, and if
5378 there are any questions I would be happy to answer them
5379 later.

5380 [The prepared statement of Mr. Volokh follows:]

5381

5382 *****COMMITTEE INSERT*****

5383

5384 *Mr. Doyle. Okay, thank you so much.

5385 Now, let's see, we want to recognize Mr. Lyons for five
5386 minutes.

5387

5388 STATEMENT OF DANIEL A. LYONS

5389

5390 *Mr. Lyons. Thank you. Chairman Doyle, Ranking Member
5391 Latta, and members of the committee, thank you for inviting
5392 me today. My name is Daniel Lyons. I am a non-resident
5393 senior fellow at the American Enterprise Institute, and a
5394 professor at Boston College Law School, where I teach and
5395 write about telecommunications and Internet policy.

5396 I want to focus today on two key themes: first, Section
5397 230 provides critical infrastructure underlying the modern
5398 Internet ecosystem, we tinker with it at our peril; second,
5399 regulating algorithms, in particular, risks doing more harm
5400 than good for Internet-based companies, and for users, while
5401 unleashing a litigation unrelated to the issues the
5402 subcommittee seeks to address.

5403 One cannot emphasize enough the importance of Section
5404 230 to the modern Internet landscape. Professor Jeff Kosseff
5405 accurately described the statute as the 26 words that created
5406 the Internet.

5407 This hearing is focused primarily upon the largest
5408 social media platforms, such as Facebook. But it is
5409 important to recognize that a wide range of companies rely
5410 heavily on Section 230 every day to acquire, curate, and
5411 share user content to millions of Americans. Section 230
5412 provides a legal framework that allows platforms to

5413 facilitate user speech at mass scale. It also promotes
5414 competition and innovation among those platforms. The
5415 statute relieves startups from the costs associated with
5416 content moderation, which reduces barriers to entry online.

5417 Because Section 230 is woven deeply into the fabric of
5418 online society, it is difficult to predict in advance how a
5419 change to the statute will ripple throughout the Internet
5420 ecosystem. One thing we do know is that this ecosystem is
5421 complex and dynamic, which creates a greater risk of
5422 unintended consequences.

5423 Professor Eric Goldman argues that reducing Section 230
5424 protections makes it harder for disruptive new entrants to
5425 challenge incumbent companies. Content moderation costs
5426 would rise for everyone, but the incumbents can afford that
5427 cost more easily than startups. It would be ironic if,
5428 seeking to reduce Facebook's influence, this committee
5429 inadvertently entrenched that company against competition.

5430 Congress's previous amendment of Section 230 highlights
5431 that risk of unintended consequences. In 2017 FOSTA
5432 eliminated intermediary liability for sex trafficking claims.
5433 Now, Congress's purpose was noble: to reduce online sex
5434 trafficking. But good intentions don't justify bad
5435 consequences. Subsequent studies by academics and by the GAO
5436 show that FOSTA made it harder, not easier for law
5437 enforcement to catch perpetrators; made conditions more

5438 dangerous for sex workers; and had a chilling effect on free
5439 speech.

5440 The bills currently before the committee presents
5441 similar risks, and this is particularly true of attempts to
5442 regulate platform algorithms. We have heard a lot about the
5443 ways that algorithms can promote socially undesirable content
5444 online, but we must recognize that algorithms also promote
5445 millions of socially beneficial connections every day.

5446 Yes, personalized algorithms make it easier for neo-
5447 Nazis to find each other. But it also makes it easier for
5448 other discrete minorities to find each other online, like
5449 LGBTQ youth, or social activists, or bluegrass fans.
5450 Speakers and listeners alike benefit from companies' use of
5451 personalized algorithms to organize and curate user-generated
5452 content. It would be a mistake to eliminate those benefits
5453 because of the risk of abuse.

5454 The genius of the Internet has been the reduction of
5455 information costs, right? One click allows the user to
5456 access a vast treasure trove of information, transported
5457 around the planet at the speed of light for nearly zero cost.
5458 The downside is filtering costs. Users must sort through
5459 this treasure trove in order to find the content they want.
5460 And what people want desires -- differs from user to user.
5461 Internet companies compete, and they compete fiercely, to
5462 help users sort that information, and they do so through

5463 algorithms.

5464 These bills incentivize companies to reduce those
5465 services, in part because of the way the bills define the
5466 term vaguely. JAMA, for example, defines personalized
5467 algorithms as any -- using any information specific to an
5468 individual. That is an extraordinarily broad phrase. If any
5469 algorithmic recommendation materially contributes to physical
5470 or severe emotional injury -- also vague terms -- the
5471 platform is stripped of its crucial 230 protections.

5472 So the incentives for platforms are clear. Whatever
5473 social gains we reap by reducing algorithmic promotion of
5474 undesirable content would likely be dwarfed by the loss of
5475 ability to personalize one's feed, and to find content that
5476 one desires.

5477 Now, this vagueness may also prompt litigation only
5478 tangentially related to the bill's purpose. As a law
5479 professor, I teach my students to identify ambiguous terms in
5480 the statute, because that is where -- those are the terms
5481 that are most likely to prompt litigation. Here, terms like
5482 "any computational process," "materially contributes," and
5483 "severe emotional injury" are catnip to creative trial
5484 lawyers, particularly in a dynamic environment where
5485 innovation creates new opportunities for litigation. That
5486 was the lesson of the TCPA, which was a 1991 anti-robocall
5487 statute that found new life in the 2010s to target conduct

5488 that Congress neither intended nor contemplated.

5489 Now, these claims may ultimately fail, but they still
5490 impose significant litigation costs. And again, those costs
5491 disproportionately affect startups, who can ill afford to pay
5492 them. Thank you.

5493 [The prepared statement of Mr. Lyons follows:]

5494

5495 *****COMMITTEE INSERT*****

5496

5497 *Mr. Doyle. Thank you very much. So we have concluded
5498 our second panel's opening statements. We are now going to
5499 move to members' second rounds of questions.

5500 Each member will have five minutes to ask questions of
5501 our witnesses. I will start by recognizing myself for five
5502 minutes.

5503 Ms. Goldberg, thank you for being here and taking up the
5504 fight for these individuals who have suffered tragic and
5505 unimaginable harm. It is important work.

5506 I have often heard that, by amending Section 230,
5507 Congress would unleash an avalanche of lawsuits on companies
5508 which would break the Internet, and leave only the largest
5509 platform standing. Can you tell me your thoughts on the
5510 matter, and go into greater detail on the hurdles that users
5511 would still have to overcome to bring a successful suit
5512 against a platform?

5513 *Ms. Goldberg. Sure. You know, there is so much
5514 concern about this idea that, if we remove Section 230, it
5515 will just flood the courts, and that litigants will just
5516 stampede in there. And to that I say, well, what about all
5517 the frivolous 230 defenses that we see?

5518 There is a case pending right now against Facebook for
5519 discrimination, where Facebook has claimed that Sheryl
5520 Sandberg and Mark Zuckerberg are immune from liability for
5521 lies that they said to Congress, orally and in person.

5522 But let me tell you why Section 230 is not going to
5523 create a groundswell. There basically six reasons.

5524 Number one, it is unlawful already to file frivolous
5525 litigation. It is sanctionable, and it is a violation of the
5526 rules of professional responsibility.

5527 Number two, the onus is on the plaintiff to prove
5528 liability. So a lot of people say that removing Section 230
5529 creates liability. No, the pleading standards are very, very
5530 high and hard, and removing an exemption does not create the
5531 liability. That is still the hard work of the plaintiff.

5532 Number three, basic economics deter low-injury cases
5533 from going forward. Litigation is arduous, it is expensive,
5534 it requires stamina for years, and it takes thousands of
5535 hours of attorney time. And these are personal injury cases
5536 that are contingency. And the costs of experts, depositions,
5537 those add up, and few lawyers are going to take those cases,
5538 where the costs of litigation are incommensurate with any
5539 damages that can be obtained for the client. That leaves the
5540 most serious cases being litigated.

5541 Number four, nothing is going to be procedurally
5542 different without Section 230. Motions to dismiss on other
5543 grounds are filed by defendants at the same time, statute of
5544 limitations, lack of jurisdiction, anti-SLAPP, poor
5545 pleadings.

5546 And number five, anti-SLAPP. It is a faster and harsher

5547 deterrent for defendants to get weak and constitutionally
5548 protected, speech-based claims dismissed. Plaintiffs
5549 bringing frivolous, content-based cases are deterred by anti-
5550 SLAPP, which shifts the fee so that, if a defendant brings an
5551 anti-SLAPP motion, then a plaintiff who loses has to actually
5552 pay the defendant's legal fees. So it is very expensive to
5553 bring a speech-based claim, and it is punitive.

5554 And then, number six, uninformed plaintiffs sue anyway.
5555 Section 230 doesn't deter people from filing lawsuits. I
5556 mean, the status quo does not deter people from filing
5557 lawsuits. There is no barrier to buying an index number and
5558 filing a lawsuit, with or without Section 230 immunity. It
5559 won't change that.

5560 *Mr. Doyle. Thank you.

5561 Matt, it is good to have you back, by the way, too.

5562 *Mr. Wood. Thank you, sir.

5563 *Mr. Doyle. Your organization, Free Press, is committed
5564 to ensuring all communities have a voice online, and can
5565 connect and communicate across technologies. And we have
5566 been told by large tech platforms and others that, in
5567 changing Section 230, we must create exemptions for some
5568 smaller online platforms, but you don't seem to think that is
5569 true.

5570 We have a fairly small exemption of that type in the
5571 Justice Against Malicious Algorithms Act. Can you explain

5572 your view on small business exemptions, generally?

5573 *Mr. Wood. Yes, you are right. Your testimony says
5574 that we don't think that is necessarily the way to go. I
5575 think Ms. Goldberg's answer is amazing, and shows some of the
5576 balances that we have to strike here.

5577 A small business exemption could prevent what would be
5578 an increase in litigation, and even strategic lawsuits
5579 against public participation, those SLAPP lawsuits that she
5580 described. So there is some danger there.

5581 We also think, though, that big platforms can generate a
5582 lot of beneficial interaction and engagement, and small ones
5583 can cause grievous harms. So that is why we would be careful
5584 about only attaching liability to the largest platforms, and
5585 making sure that smaller ones can't be held accountable.

5586 *Mr. Doyle. Okay. Thanks, Matt.

5587 I see my time is up, so I will now recognize my good
5588 friend, the ranking member, Mr. Latta, for five minutes.

5589 *Mr. Latta. Well, thank you, Mr. Chairman, and thanks
5590 very much for our panel.

5591 Mr. Volokh, as of this week Twitter has a new CEO, and
5592 his earliest statements indicate he is not a fan of the First
5593 Amendment. Just yesterday, Twitter expanded the scope of
5594 their private information policy to prohibit the sharing of
5595 private media, such as images or videos, without their
5596 consent. This is a massive abuse of power by these

5597 companies, and it shows that they are being arbiters of
5598 truth.

5599 However, Twitter goes on to state that they will take
5600 into consideration whether the image is publicly available
5601 and/or is being covered by journalists, or is being shared in
5602 the public interest, or is relevant to the community.

5603 Understanding that Twitter is currently protected under
5604 Section 230 for this type of action, how would this action be
5605 interpreted under the First Amendment, if it was the
5606 government taking this action?

5607 [Pause.]

5608 *Mr. Doyle. You need to unmute, Mr. Volokh.

5609 *Mr. Volokh. I am so sorry.

5610 So, under the First Amendment, the government couldn't
5611 do that. At the same time, the -- if it was a newspaper
5612 doing it, it could do that, and it routinely does do such
5613 things. Newspapers do.

5614 So the questions, I think, that Congress has to consider
5615 is should it view Twitter and Facebook and such more like a
5616 newspaper or more like the Post Office, which is government
5617 run, or, say, a phone company, or UPS, or FedEx. We don't
5618 expect a phone company to decide, oh, there is bad stuff
5619 being done on phone lines, it is dangerous, so we are going
5620 to shut off somebody's phone service. We don't expect UPS or
5621 FedEx saying, "We refuse to deliver books from this

5622 bookstore, this publisher, because we think they are bad.''
5623 They are common carriers.

5624 So the question is, as to Twitter's function of hosting
5625 material and letting people distribute things to others who
5626 subscribe to the Twitter feeds, should Congress view, should
5627 the law view Twitter more like a phone company, or more like
5628 the Post Office, or more like UPS or FedEx, or more like a
5629 newspaper or magazine, where we are supposed to be making
5630 these kinds of editorial judgments. That is the question.

5631 *Mr. Latta. Well, thank you.

5632 Mr. Wood, in your testimony you talk about how the Zeran
5633 v. AOL ruling opened the door to providing platforms (c)(1)
5634 protection for material that a platform knows to be harmful,
5635 actionable, or unlawful, because the subsequent distribution
5636 of that material was viewed by the court as republication of
5637 that material. This seems to be an area of general agreement
5638 between scholars on opposite ends of the political spectrum,
5639 from Justice Clarence Thomas to Jeff Koseff.

5640 As part of the Big Tech accountability platform, we have
5641 a discussion draft that would create a Bad Samaritan carve-
5642 out that would narrow liability protection for platforms that
5643 knowingly promote, solicit, or facilitate illegal activity.
5644 How would this proposal help hold tech companies responsible
5645 for illegal activity on their platforms?

5646 *Mr. Wood. Thank you, Mr. Latta. Yes, as you noted, we

5647 found and talked in our testimony about the people on
5648 opposite sides of the political spectrum who have taken that
5649 view, and explained that 230(c)(1) is not being read in the
5650 only obvious way, that distributors could be liable.

5651 I think there is some appeal to thinking of every time a
5652 website is served it is a subsequent publication, but,
5653 obviously, that is not the only way to think about it. And
5654 so the algorithms they use, other techniques that platforms
5655 use to distribute content, could be seen as separate from
5656 that original liability exemption, and they could be held
5657 liable for it.

5658 And so I think that is what we are all talking about
5659 here is, however we do it, whether it is the majority's bill,
5660 or some of the minority discussion drafts, or our proposal to
5661 think about the Zeran case, there should be ways to, whether
5662 we call them Bad Samaritans or not, hold companies
5663 accountable when they know that their choices are causing
5664 harm.

5665 *Mr. Latta. Well, thank you.

5666 Dr. Franks, in your testimony you seem to agree with
5667 this assessment, but in your suggestion you propose you add a
5668 second concept of indifference to the Bad Samaritan
5669 platforms. Would you elaborate on that?

5670 *Dr. Franks. My apologies. Yes, that the deliberate
5671 indifference standard is intended to set a bar for how these

5672 intermediaries would need to respond -- that is, to fail to
5673 respond -- to certain types of unlawful content, that they
5674 wouldn't necessarily lose the shield simply because there was
5675 this content, but when they are deliberately indifferent to
5676 that content. That is assuming that they knew about the
5677 content, and refused to do anything reasonable to take steps
5678 to prevent it or ameliorate it.

5679 *Mr. Latta. Well, thank you very much.

5680 Mr. Chairman, my time is about to expire, and I yield
5681 back.

5682 *Mr. Doyle. I thank the gentleman.

5683 Let's see, Mr. McNerney, you are now recognized for five
5684 minutes.

5685 *Mr. McNerney. I thank the chairman. And again, I
5686 thank the witnesses for your patience today, and I appreciate
5687 the thoughtful way we are approaching reform, which can,
5688 clearly, have wide-ranging effects across the Internet
5689 ecosystem.

5690 So, Mr. Wood, what specific reforms can we make to
5691 Section 230 that will ensure that the tech platforms are not
5692 padding their bottom lines, while knowingly harming
5693 vulnerable populations?

5694 *Mr. Wood. Thank you, Mr. McNerney, for that question.

5695 As my testimony suggests, we have not endorsed or
5696 opposed any of the approaches here today, but we certainly

5697 think there are good ideas in all of them, and, you know,
5698 some reasons for concern, as well, about those wide-ranging
5699 impacts that you discussed. So just finding a way to, as the
5700 other witnesses have testified so eloquently today, hold
5701 these platforms accountable when they know they are causing
5702 harm, whether that is by examining that interpretation of the
5703 protections in (c)(1), and understanding that distribution
5704 and algorithmic amplification are very different, at least in
5705 theory, and often in practice, from the original publication.

5706 Obviously, there is other approaches and ways to do
5707 that. But again, I think we are all looking at the same set
5708 of problems, and talking about how to address them, not
5709 whether we should.

5710 *Mr. McNerney. Right. Okay, well, that is the
5711 question: How do we address this? And it is complicated, so
5712 I appreciate your thoughts.

5713 Ambassador Kornbluh, thank you for coming today again.
5714 I know you have thought a lot about how it might be
5715 appropriate to carve out some types of algorithms from legal
5716 immunity under Section 230 -- for example, personalized
5717 recommendation algorithms. But what do you think about the
5718 general product design features, as the Aspen Institute has
5719 suggested in its report?

5720 *Ms. Kornbluh. Thank you for that question. I think,
5721 in general, one of the things that has been very helpful

5722 about the Facebook whistleblower we heard from in the first
5723 panel is that she has shifted our attention from debating the
5724 content, and the right to post, and who gets to decide if it
5725 gets taken down to looking upstream at the practices of the
5726 platform, the design of the platform before something goes
5727 viral, that make it go viral, or that push it into somebody's
5728 newsfeed, or some child's, you know, Instagram feed.

5729 And one of the many studies that has come out as a
5730 result of her work had Facebook employees themselves
5731 admitting that the mechanics of the platform are not neutral,
5732 in their own words, and are, in fact, key to spreading hate
5733 and misinformation. And so I think the -- especially the
5734 bill that the chair has introduced, and also the Malinowski
5735 bill, those two especially, by focusing on either non-
5736 transparent algorithms, or knowing and reckless use of
5737 algorithms that then result in extraordinary harm, whether it
5738 is international terrorism, or serious physical or emotional
5739 harm, that that narrow carve-out for it, it is really your
5740 design, and it is to really cause bad stuff, that that seems,
5741 to me, to get at some of the most egregious issues, without
5742 incurring too much negative consequences.

5743 *Mr. McNerney. Well, you just used the word
5744 "neutrality" there, and I think that is one of the big
5745 defenses that the platforms are using.

5746 *Ms. Kornbluh. Yes.

5747 *Mr. McNerney. So that would be an interesting
5748 approach. Thank you.

5749 *Ms. Kornbluh. Well, and they admit themselves, the
5750 employees admit in a research study, that their own design is
5751 not neutral. It pushes the hate and misinformation.

5752 *Mr. McNerney. Thank you.

5753 Dr. Franks, how does the status quo of Section 230 allow
5754 disinformation to proliferate without any recourse or
5755 accountability to the harmed public?

5756 *Dr. Franks. Well, disinformation is one of the key
5757 issues that I think we are all worried about, in terms of the
5758 amplification and the distribution of harmful content,
5759 fraudulent and otherwise.

5760 Section 230 and its (c)(1) provision essentially
5761 safeguards the intermediaries that are promoting this type of
5762 content from any kind of liability. And so there is no
5763 incentive for these companies to think hard about whether or
5764 not the content that they are promoting is going to cause
5765 harm. And so they don't have any incentives to review it, to
5766 think about taking it down, or whether they should think
5767 about whether it should be on their platform at all.

5768 *Mr. McNerney. Thank you.

5769 Ms. Goldberg, even if we reformed Section 230, as you
5770 have mentioned, there are many other steep barriers to
5771 plaintiffs' court cases. How can we ensure that plaintiffs

5772 have access to information that they need to properly plead
5773 their case?

5774 *Ms. Goldberg. Well, we create the exceptions and the
5775 exemptions of immunity, so that plaintiffs can get to the
5776 point of discovery, where the defendant is compelled and
5777 required to turn over information that is relevant to the
5778 case, so that a plaintiff has the best shot of building a
5779 viable lawsuit.

5780 *Mr. McNerney. Thank you.

5781 Mr. Chairman, I yield back.

5782 *Mr. Doyle. The gentleman yields back. The chair
5783 recognizes Mr. Guthrie for five minutes.

5784 *Mr. Guthrie. Thank you, Mr. Chair, and I really
5785 appreciate the witnesses being here. I know it has been a
5786 long day with the big break for the votes, but I appreciate
5787 you being here.

5788 Mr. Volokh, I have a concern, as I said earlier today,
5789 when I talked to him, the Republican leader of the Energy and
5790 Commerce Health Care Subcommittee, and real concerned about
5791 opioid addiction, opioid sales, and illegal opioid trade.
5792 And the recent reports have highlighted that illegal -- the
5793 illegal sale of opioids on social media platforms have
5794 skyrocketed recently.

5795 In many cases, advocates, researchers, or law
5796 enforcement share information or leads with platforms to help

5797 them take down this clearly illegal content. But those calls
5798 sometimes go unheeded.

5799 And, so Mr. Volokh -- and actually, I probably should
5800 have time for anybody that would like to answer this. You
5801 have been here all day, so if you have an opinion, I would
5802 certainly love to hear it.

5803 So my question, first with Mr. Volokh and anybody else
5804 who would like to answer, can you explain which provisions of
5805 Section 230 provide immunity for platforms, when they know of
5806 specific instances where this content is on their platform,
5807 illegal opioids, and yet do not take action to remove it?

5808 And, if the -- if so, would you recommend modifying
5809 Section 230 to address this issue?

5810 And, if so, how would you balance the need for
5811 accountability, while fostering platforms' ability to remove
5812 this illegal content?

5813 And I can repeat that, if you need, but anyone --

5814 *Mr. Volokh. Sure --

5815 *Mr. Guthrie. So Mr. Volokh, you to go, and then Ms.
5816 Goldberg would love to hear from me (sic).

5817 *Mr. Volokh. Sure --

5818 *Mr. Guthrie. Mr. Volokh first, and then we will go to
5819 Ms. Goldberg, if that is fine.

5820 *Mr. Volokh. Sure. So I do not think that Section 230
5821 needs to be modified in light of this.

5822 Now, if they were talking about Federal criminal law
5823 enforcement, generally speaking, 230 does not preempt Federal
5824 criminal prosecutions. So if Federal prosecutors think that
5825 platforms are actually actively involved in this, conspiring,
5826 or even aiding and abetting, under the proper legal standards
5827 they can already prosecute them.

5828 Section 230 would preclude civil liability lawsuits
5829 against platforms, but for -- I am not sure that there would
5830 be that much by way of possible civil liability for
5831 platforms, even if they are alerted that there is something
5832 going on in this particular online group. I am not sure that
5833 we want platforms to be held liable for it. In fact, to the
5834 extent that people are engaged in this illegal activity on
5835 platforms, that is helpful to law enforcement to have it be
5836 done in a place where they can hop on, and look around, and
5837 see the ads, and use them as a basis for prosecution.

5838 Platforms certainly are not barred from alerting law
5839 enforcement to such things. They certainly are obligated, in
5840 fact, respond to law enforcement subpoenas, if law
5841 enforcement wants to subpoena things. So I think the right
5842 approach is not to enforce platforms as kind of opioid cops,
5843 a role which I think they are not well suited to, but instead
5844 to have law enforcement using the information they can find
5845 on the platforms to prosecute illegal transactions.

5846 *Mr. Guthrie. Thanks. Yes, thank you for that answer.

5847 And Ms. Goldberg, you have an answer or a --

5848 *Ms. Goldberg. Thank you for having this issue on your
5849 mind. We represent 4 families who have each lost a child,
5850 one as young as 14, who bought one fentanyl-laced opioid pill
5851 during the pandemic. Kids home from college, bored,
5852 experimenting.

5853 So you asked where in Section 230 precludes us, or where
5854 -- yes, where in Section 230 precludes us from being able to
5855 hold a platform responsible for facilitating these kinds of
5856 sales?

5857 And the fact is that, if we looked at Section 230, as it
5858 is written, I think we could agree that the matching and the
5859 pairing is not information content. It is not a speech-based
5860 thing that a user posted.

5861 However, the way that the courts have interpreted
5862 Section 230 over the last 27 years is actually more of a
5863 problem than how it is currently drafted, because it is so
5864 extravagantly interpreted that it has included products --
5865 all product liability cases. You can't sue anything that is
5866 related to the product design, or the defects. You can't
5867 even sue a company for violating its own terms of service.
5868 So they can lie --

5869 *Mr. Guthrie. I have about 40 seconds. So --

5870 *Ms. Goldberg. Okay.

5871 *Mr. Guthrie. How would you change it, and what would

5872 you do?

5873 *Ms. Goldberg. Well, I think --

5874 *Mr. Guthrie. Okay.

5875 *Ms. Goldberg. I think one provision in the SAFE TECH
5876 Act is that it has a carve-out for wrongful deaths. And I
5877 think, if we have the most serious harms overcome Section 230
5878 -- or remove Section 230 for the most extreme harms, then
5879 that is how we do it.

5880 *Mr. Guthrie. Okay. I still have 15 more seconds, if
5881 you got more to --

5882 *Ms. Goldberg. I will sing.

5883 *Mr. Guthrie. Okay, thank you. If that is -- nobody
5884 else, I will yield back my time.

5885 Thank you, chair.

5886 Thanks for your answer. Thank you.

5887 *Mr. Doyle. The gentleman yields back. The chair
5888 recognizes Ms. Clarke for five minutes.

5889 *Ms. Clarke. Thank you, Mr. Chairman, and thank you to
5890 our panel witnesses for your testimony here today, and for
5891 your patience as we came back from voting this afternoon.

5892 As many today have stated, Section 230 has served its
5893 intended purpose of allowing a free and open Internet, the
5894 opportunity to blossom and connect us in ways previously
5895 thought unimaginable. Unfortunately, due both to
5896 technological innovation, as well as an overly broad

5897 interpretations of the law from Federal courts, it has also
5898 aided in the promotion of a culture in Big Tech that lacks
5899 accountability.

5900 Respect for free speech in the real world and online is
5901 of paramount importance, and we can all acknowledge that
5902 important role Section 230 plays in creating the conditions
5903 for free speech to flourish online. Unfortunately, many
5904 countries have used this protection as a shield for
5905 discriminatory or harmful practices, particularly with
5906 respect to targeted online advertising.

5907 That is why I was proud to introduce H.R. 3184, the
5908 Civil Rights Modernization Act, to ensure that civil rights
5909 laws are not sidestepped. Section 230 already provides
5910 exemptions to its liability shield in Federal criminal
5911 prosecution: intellectual property disputes and certain
5912 prosecutions related to sex trafficking.

5913 As targeted advertising can be used to exclude people
5914 from voting, housing, job opportunities, education, and other
5915 beneficial economic activity on the basis of race, sex, age,
5916 and other protected status, now is the time to codify and
5917 modernize our civil rights protections to ensure our most
5918 vulnerable are not left behind in this increasingly digital
5919 age.

5920 So my first question is for Mr. Wood before giving other
5921 panels the opportunity to chime in, as well.

5922 Mr. Wood, in your prepared testimony you made clear your
5923 belief that a complete repeal or a drastic weakening of
5924 Section 230 would not sufficiently address the harms that we
5925 have been discussing today. Why do you feel that a more
5926 targeted approach is the better option?

5927 *Mr. Wood. Thank you, Representative Clarke. Yes, that
5928 is our belief, and I think it speaks to the harms you are
5929 talking about here.

5930 If we were to repeal Section 230, then that would still
5931 beg the question, well, what are people going to sue for?

5932 And so, if there is no remedy underneath that repeal,
5933 even though we have taken away the liability shield, there
5934 could still be, really, no relief for the plaintiff, who has
5935 been harmed.

5936 We have a lot of support and sympathy for the ideas in
5937 your bill, obviously, civil rights and getting civil rights
5938 back into the equation. And, as Mr. Robinson testified to
5939 this morning, making sure our platforms can't evade civil
5940 rights law is key.

5941 The only questions we have about the approach and how to
5942 do that is whether we ought to say only targeted ads should
5943 trigger that change in the shield. Perhaps there are ways --
5944 and I go beyond perhaps -- there are clearly ways in which
5945 platforms could discriminate that don't involve targeted
5946 advertising, so we would like to look more and say, when are

5947 they actually knowingly contributing to, or distributing
5948 material, or engaging in some conduct that discriminates, and
5949 making sure that we can actually address those issues when
5950 and where they arise, whatever the method, whatever the
5951 economic or technological background for that harm.

5952 *Ms. Clarke. Well, thank you.

5953 Dr. Franks, in your testimony you spoke about the
5954 principle of collective responsibility. Could you please
5955 expound on that idea, and how broad grants of immunity from
5956 liability risk often run counter to that ideal?

5957 *Dr. Franks. Yes. The concept of collective
5958 responsibility is something that we are all familiar with in
5959 normal times in our physical spaces. We know that the
5960 reasons that cause -- the things that cause harm often have
5961 multiple causes. We know that there are people who act
5962 intentionally to cause harm, but there are also people who
5963 are simply careless. There are people who are sometimes
5964 reckless. There are people who are sometimes simply not
5965 properly incentivized to be careful.

5966 And the concept of collective responsibility, pretty
5967 much everywhere except in the online context, tells us that
5968 all of those people, all of those parties, do have some
5969 responsibility to be careful, and that when people, in fact,
5970 are negligent, or when they are reckless, or where they
5971 contribute in some minor or major way to harm, they can and

5972 they should be found responsible.

5973 And what that does, importantly, for all of us, is it
5974 encourages people to be more careful. It encourages
5975 businesses not to simply seek to maximize their profits, but
5976 to also consider the ways that they might allocate their
5977 resources to think about safety, to think about innovation,
5978 to think about absorbing, to some extent, the costs of any
5979 harm that might result from their practices.

5980 *Ms. Clarke. Well, thank you very much.

5981 I thank all of our witnesses for appearing before us
5982 today. And with that, Mr. Chairman, I yield back the balance
5983 of my time.

5984 *Mr. Doyle. The gentlelady yields back. The chair now
5985 recognizes Mrs. Rodgers for five minutes for her questions.

5986 *Mrs. Rodgers. Thank you, Mr. Chairman.

5987 Mr. Volokh, I wanted to ask about a provision in the
5988 legislation that I have been working on related to Section
5989 230, which would remove liability protections for platforms
5990 that take down content that is constitutionally protected.

5991 It also requires companies to have an appeal process,
5992 and be transparent for their content enforcement decisions.

5993 Would you speak to how you believe this approach to
5994 amending Section 230 would impact speech online?

5995 *Mr. Volokh. Well, it is complicated. I don't know the
5996 answer to that, fully.

5997 Here is the upside, here is the advantage. By modifying
5998 Section 230 to strip away platforms' immunity for, for
5999 example, political censorship, or religion-based, or
6000 scientific claims and the like, and leaving them -- or don't
6001 lead to block things that they think are constitutionally
6002 protected, or perhaps lewd, or excessively violent, that
6003 would make it possible for states to step in and pass laws
6004 requiring non-discrimination.

6005 And you might say that that is a good thing. In fact, I
6006 think there is a lot to be said for that, because the
6007 platforms are tremendously powerful, wealthy entities, and
6008 one could certainly argue that they shouldn't be able to
6009 leverage that kind of economic power and political power,
6010 that we shouldn't have all these very wealthy corporations
6011 deciding what people can and cannot say online, politically.

6012 On the other hand, there would be downsides to that.
6013 First of all, I think there would be a lot more litigation,
6014 some of it probably funded by public advocacy groups where
6015 people say, "Oh, well, my item was deleted because of its
6016 politics," and the platform says, no, it was because it was
6017 pornographic. "Well, I think the real reason was its
6018 politics." So there might be a good deal of extra
6019 litigation to this, and maybe extra chill on platforms when
6020 they are removing things that should be removed.

6021 Likewise, if you think it is good for a platform, say,

6022 to remove death threats, they would still be allowed to do
6023 that, but there would always be the extra possibility of
6024 litigation, that if they removed it somebody will say, "Well,
6025 that really wasn't that threatening. Now I will sue you for
6026 removing it.'" So --

6027 *Mrs. Rodgers. Okay.

6028 *Mr. Volokh. So I think it is pluses and minuses.

6029 *Mrs. Rodgers. Okay, thank you. I wanted to ask a
6030 follow-up on the -- related to the legislation, the Justice
6031 Against Malicious Algorithms Act, which would amend Section
6032 230 to allow narrow liability protection for platforms that
6033 amplify recommendations that cause "severe emotional
6034 injury."

6035 Would you speak to how you believe that legislation
6036 would impact free speech on platforms?

6037 And do you think that it would silence individual
6038 American voices?

6039 *Mr. Volokh. Yes, I think it would, because platforms
6040 would realize that recommending things using an algorithm --
6041 but, again, everything is an algorithm, so it would be any
6042 kind of personalized recommendation -- is dangerous. It is
6043 dangerous because of the possibility that there will be a
6044 libel lawsuit. Libel defamation often causes severe
6045 emotional injury, so they may worry about that. They can't
6046 tell what is libelous and what is not. All they know is what

6047 is risky and what is not. And what is risky is personalized
6048 recommendations of content by unknown users.

6049 So instead, what platforms will say is either they won't
6050 recommend anything, but that is bad for business, because
6051 recommendations keep people on the system. So instead, they
6052 will provide generic recommendations. Instead of
6053 recommending video that it thinks you might like, it will
6054 recommend videos that most people like, which is not going to
6055 be as much fun for people, but it is a lot safer for the
6056 platform.

6057 Or they will recommended professional content,
6058 mainstream media content, where there is less risk of
6059 possible injuries stemming from that, less risk of
6060 defamation. And they could also make sure that the
6061 professional companies indemnify them against any liability
6062 because those companies have deep pockets. So that is good
6063 for big business, good for big media, not so bad for
6064 platforms, not good for user-generated content, which will no
6065 longer be recommended, even if it is perfectly fine.

6066 *Mrs. Rodgers. Thank you.

6067 Mr. Lyons, if the Internet user felt that a political
6068 opinion they disagreed with caused severe emotional harm,
6069 could the user sue the platform under this bill?

6070 *Mr. Lyons. They certainly could. And the -- it
6071 remains to be seen whether the court would recognize that.

6072 But the term "severe emotional harm" is not defined in a way
6073 that would exclude that.

6074 So I agree with Professor Volokh, that the wise platform
6075 policy would be to not offer any personalized algorithms at
6076 all, in order to make sure that you don't run the risk that,
6077 as a result of using a personalized algorithm, you
6078 inadvertently suggest user content, political or otherwise,
6079 that is going to trigger liability.

6080 *Mrs. Rodgers. Okay, thank you all for being here.
6081 I yield back.

6082 *Mr. Doyle. The gentlelady yields back. The chair now
6083 recognizes Mr. McEachin for five minutes.

6084 *Mr. McEachin. Thank you, Mr. Chairman. And again, I
6085 urge my colleagues to take the view that, when we are talking
6086 about immunities, what we are talking about is really not
6087 trusting our constituents, because they are the ones who make
6088 up juries.

6089 And what we are essentially saying is that they can't
6090 get it right. With the proper instructions and the proper
6091 trial put in front of them, they can't get the answer right.
6092 Yet they are wise enough to elect us, they are wise enough to
6093 go ahead and deal with issues of death, in terms of criminal
6094 liability, or freedom in terms of criminal liability, but we
6095 can't trust them to deal with a few dollars and cents when it
6096 comes to Big Tech and these immunities. That, to me, seems

6097 to be incongruent. I trust my constituents, and I think they
6098 are quite capable of deciding these issues.

6099 That being said, Ms. Goldberg, you have put together
6100 what I call a -- what you actually call Appendix A. I assume
6101 that you believe that to be a good piece of model legislation
6102 for what we are trying to do.

6103 *Ms. Goldberg. I think I misunderstood what you said.
6104 I --

6105 *Mr. McEachin. I think I --

6106 *Ms. Goldberg. Can you repeat the last part?

6107 *Mr. McEachin. I think, when I looked at your
6108 testimony, you have a -- what you call Appendix A, which
6109 seems to be a bill. And I think you are suggesting that that
6110 might be a model for going forward with 230 relief.

6111 *Ms. Goldberg. Yes. Thank you. So I --

6112 *Mr. McEachin. Well, let me --

6113 *Ms. Goldberg. -- very much --

6114 *Mr. McEachin. I just -- hold on, Ms. Goldberg. I just
6115 want to make sure I understood the purpose of that appendix.

6116 Now I want ask you, what is the difference -- are there
6117 any substantive differences between your model bill and the
6118 Safe Act?

6119 *Ms. Goldberg. It is very much inspired by parts of
6120 SAFE TECH. And there are just a few additional carve-outs in
6121 the bill that I propose, namely that --

6122 *Mr. McEachin. Would you just sort of say what those
6123 are?

6124 *Ms. Goldberg. Sure. I feel that there needs to be a
6125 carve-out -- there needs to be injunctive relief, and there
6126 needs to be a carve-out for court-ordered conduct. There
6127 needs to be -- I am trying to think -- a blanketing exemption
6128 for product liability claims, which I don't see in SAFE TECH
6129 currently. And I also don't see anything that carves out
6130 child sexual abuse and child sexual exploitation, which, in
6131 my opinion, along with the wrongful death claims that you do
6132 have, those are the types of claims that are the most
6133 serious, and need specific carve-outs.

6134 *Mr. McEachin. Okay. Well, I appreciate that, and we
6135 will certainly look at those things. And I would suggest to
6136 you that, if you look at the bill again -- and you might be
6137 looking at an old one -- injunctive relief is indeed in the
6138 SAFE TECH Act.

6139 The gentleman -- I am sorry, I didn't catch your name,
6140 but the gentleman from Free Press Action, sir, would you tell
6141 me your name again, please?

6142 *Mr. Wood. Oh, certainly. Matt Wood.

6143 *Mr. McEachin. Okay, it is Mr. Wood. All right, I just
6144 wanted to make sure. I thought I heard another name said.

6145 You seem to believe that the Safe Act would adversely
6146 affect free speech. Am I understanding that correctly from

6147 your testimony?

6148 *Mr. Wood. I wouldn't say adversely affect free speech.
6149 I do think that it would tend to lower the shield wrongly in
6150 some cases and, obviously, is aimed at remedying a lot of
6151 harms that are very important, and the carve-outs in the end.
6152 But we do have some concerns about the kinds of civil
6153 procedure and litigation proceedings that Ms. Goldberg was
6154 speaking to earlier.

6155 *Mr. McEachin. Well, let me ask you this. You look at
6156 the carve-outs that we have got there. I am subject to
6157 liability, potentially, under some of those, depending on
6158 what I am doing. You are subject to liability. It doesn't
6159 mean you are going to lose the case, but you are subject to
6160 liability. I don't hear those topics being suggested that my
6161 free speech or your free speech is being limited in any way.
6162 So how is it that this limited -- when we apply it to the Big
6163 Tech arena?

6164 *Mr. Wood. Yes, and so, again, I would say that we are
6165 not -- I am not saying that it is limiting free speech. What
6166 I am saying is that when you have, for instance, the lowering
6167 of the shield upon the receipt of any request for injunctive
6168 relief --

6169 *Mr. McEachin. Well, let me ask you this question.

6170 *Mr. Wood. The platform --

6171 *Mr. McEachin. Let me just ask you this question, then.

6172 If it does -- if it -- if you and I can be subject to these
6173 things, why can't Big Tech be subject to them?

6174 *Mr. Wood. Well, I think they can be. And the question
6175 is, is that a better state of the world?

6176 These platforms do provide benefits by having --

6177 *Mr. McEachin. Why is it not a better state of the
6178 world?

6179 *Mr. Wood. I am sorry?

6180 *Mr. McEachin. Why is it not a better state of the
6181 world?

6182 *Mr. Wood. Well, because these platforms do provide --

6183 *Mr. McEachin. If it is good enough for you and me, why
6184 is it not good enough for Big Tech?

6185 *Mr. Wood. These platforms do provide special benefits
6186 for people to communicate with each other, and yet I think
6187 that they should be held liable when they are going beyond
6188 that. And so we just would not recommend taking away the
6189 shield upon the simple receipt of a request for injunctive
6190 relief. Some of those could be very meritorious. Some might
6191 not be.

6192 We would suggest looking at whether the platform had
6193 knowledge of the harm it is causing, and not having quite
6194 such an automatic trigger that takes away this liability
6195 shield that has great benefits, but can also cause great harm
6196 when it is abused.

6197 *Mr. Doyle. The gentleman's time has expired.

6198 *Mr. McEachin. I apologize for trespassing, Mr.
6199 Chairman.

6200 *Mr. Doyle. That is quite all right. Let's see. The
6201 chair recognizes Mr. Walberg for five minutes.

6202 *Mr. Walberg. Mr. Volokh, I want to get your thoughts
6203 on my discussion draft that would establish a carve-out from
6204 Section 230 protections for actions based on a claim relating
6205 to reasonably foreseeable cyber bullying of users under the
6206 age of 18.

6207 In my draft, cyber bullying is defined as "intentionally
6208 engaging in a course of conduct that was reasonably
6209 foreseeable, and places an individual in reasonable fear of
6210 death or serious bodily injury, and causes, attempts to
6211 cause, or would reasonably be expected to cause an individual
6212 to commit suicide.'" This would mean that an interactive
6213 computer service would need to know of a pattern of abuse on
6214 its platform.

6215 So Mr. Volokh, do you think that narrowly opening up
6216 liability in this way would lead to behavioral changes by
6217 tech companies that reduce cyber bullying online?

6218 *Mr. Volokh. I think it will lead to some changes on
6219 the part of platforms, but I am not sure that it would be big
6220 changes.

6221 The problem is whenever you list -- this is what I call

6222 the reverse Spider Man principle, which is with great
6223 responsibility comes great power. If you put platforms in a
6224 position where they are liable for not taking down cyber
6225 bullying, they are going to have to be policemen,
6226 essentially, of this kind of thing.

6227 So somebody says, "Oh, this person is saying all of
6228 these things, and they put me in fear of serious bodily
6229 injury,'" and the person who is posting it says, "No, no, no.
6230 That -- you are totally misunderstanding. This is just
6231 legitimate criticism.'" There is some debate about some
6232 event that happened at school.

6233 I will give you an example. There have been some
6234 incidents where a young woman, a girl accuses a boy of, say,
6235 raping her, and the boy says, "That is cyber bullying of me,
6236 or that is bullying me because it is all a lie. And this is
6237 putting me in fear of violence from third parties, and it may
6238 also lead me to feel suicidal,'" or something like that. Do
6239 we want platforms to be in a position there, where they are
6240 deciding who is telling the truth and who isn't, and whether,
6241 in fact, this is indeed the sort of material that should be
6242 taken down?

6243 I don't think that that is something that should be left
6244 to platforms. Schools may have authority to investigate
6245 this, and to deal with it in some situations. Law
6246 enforcement may, in some situations, if it is actual death

6247 threats. But I don't think the platforms that don't have
6248 subpoena power, don't have real investigative power should be
6249 made into bullying cops.

6250 *Mr. Walberg. Okay. Thank you. I appreciate that.

6251 Mr. Wood, in the case of cyber bullying online, while
6252 cyber bullying itself may not be illegal, many times it can
6253 rise to that level, which may present a cause of action such
6254 as harassment claims. In those instances, do you think my
6255 Section 230 discussion draft carve-out for cyberbullying
6256 would provide a pathway for parents and children to seek
6257 relief?

6258 *Mr. Wood. Yes, thank you, Mr. Walberg. I do think it
6259 would provide a pathway. We tend not to favor the carve-
6260 outs, not because that is not an incredibly important topic,
6261 and you have heard from other witnesses about the harms that
6262 these kinds of activities cause when platforms facilitate
6263 them.

6264 Rather than tying any kind of liability exemption or the
6265 removal of that exemption to the topic, we would prefer to
6266 take a broader approach, and I would say a more
6267 comprehensive, if less targeted approach, that says any time
6268 the platform is knowingly facilitating harm, or its own
6269 conduct is causing that harm, then they should be liable for
6270 damages, and not necessarily solely for the initial user
6271 post.

6272 Obviously, that is a spectrum, but we think courts
6273 should have a chance to look at that spectrum, and not be
6274 precluded from ever examining it.

6275 *Mr. Walberg. Okay, thank you. I appreciate that.

6276 Mr. Chairman, I took more than my time in the first
6277 panel, so I give this back to you.

6278 *Mr. Doyle. That is very generous of you, Mr. Walberg,
6279 I appreciate that.

6280 Mr. Soto, you are recognized for five minutes.

6281 *Mr. Soto. Thank you, Mr. Chairman, and I thank you and
6282 the ranking member and my colleagues for a spirited debate in
6283 panel one. And I want to focus panel two on common ground
6284 that I have gathered after hearing so many of our colleagues
6285 from both sides of the aisle on exemptions to 230.

6286 I think the main frustration is there are many things
6287 that, in the real world, would have consequences. But when
6288 you are doing it virtually, you are exempt, whether it is
6289 criminal activity, whether it is violating civil rights,
6290 whether it is even injuring our kids. Many of these things,
6291 if you did them in real life, as a newspaper, as a radio
6292 station, or as a business, you would be liable for it, and
6293 you are not -- magically, because it is in the virtual world,
6294 and because -- it happens because of 230.

6295 So I want to focus on those three areas of common ground
6296 that I saw this morning: protecting civil rights, stopping

6297 illegal transactions and conduct, and protecting our kids.

6298 We will start with you, Attorney Goldberg. We have H.R.
6299 3184, which attempts to remedy civil rights violations, and I
6300 wanted to get your opinion on the importance of injunctions
6301 in these civil rights violations when they are ongoing for
6302 for a victim, and your thoughts on damages.

6303 *Ms. Goldberg. So the -- I think injunctive relief is
6304 really important because the current standard is that you
6305 can't enforce an injunction against a tech company because of
6306 Section 230, but you can't include them as a defendant
6307 because of Section 230.

6308 So take my client, for example. She was the victim of
6309 extreme cyber stalking. Her ex-boyfriend impersonated her,
6310 and made bomb threats all around the country to Jewish
6311 community centers. And he was charged with 60 months in
6312 Federal prison, and a lot of the threats he was making were
6313 on Twitter. He smuggled a phone into prison, got in trouble
6314 for it, got re-sentenced, and Twitter won't take that content
6315 down, even though it was the basis of his sentence, and
6316 really, you know, very much related to why he was in trouble
6317 in the first place.

6318 I can't get an injunction against them, but I can't not
6319 -- if I tried to get a defamation order, I can't enforce it
6320 because Twitter would say their due process was violated.

6321 *Mr. Soto. And thank you, Attorney Goldberg. So we see

6322 time is of the essence. And even when time isn't of the
6323 essence, these things persist, and there is nothing you could
6324 do about them without an ability to have injunctions.

6325 Another common ground issue was protecting our kids.
6326 Ambassador Kornbluh, I know you have discussed a little bit
6327 of it in your testimony. Where is the line? How do we
6328 protect kids under 18 online in these social media sites,
6329 according to your opinions?

6330 *Ms. Kornbluh. Well, I think what we see is that,
6331 again, the platform design, as Ms. Goldberg has discussed,
6332 but also as we have seen in some of the Facebook Papers, if
6333 the platform design connects people it can harm children and
6334 promote content into their feeds that can harm children.

6335 And so I think, as you look at remedies, figuring out
6336 how you can hold the platform as responsible without creating
6337 some of the negative effects that Mr. Wood has described,
6338 narrowly targeting their design, and the serious, serious
6339 harms, either physical harms or, if there is a way to cordon
6340 the emotional harms in a way that doesn't become too broad,
6341 but I think it is essential.

6342 I mean, we hear from children all the time, "I wish the
6343 platform would wipe my algorithm clean. They are sending me
6344 stuff that is making me worse.'" You know, we hear of this
6345 epidemic of mental health issues, especially among young
6346 girls. They are -- and they go back on, and back on, and

6347 back on. That is where their social life is. And yet they
6348 are fed this damage, these damaging self images that hurt
6349 them.

6350 *Mr. Soto. Thank you, Ambassador.

6351 *Ms. Kornbluh. And something must be done.

6352 *Mr. Soto. In any other situation, a commercial entity
6353 would be liable for putting our kids in danger like that, and
6354 that is, again, the frustration.

6355 Dr. Franks, first, welcome from the Sunshine State. And
6356 I want to talk a little bit about stopping illegal conduct
6357 and transactions beyond just the civil rights arena, and want
6358 to get your advice on what we could pursue to stop illegal
6359 transactions like drug deals, and things like that, among
6360 other illegal conduct.

6361 *Dr. Franks. Part of the challenge of this, and part of
6362 the reason why I am somewhat hesitant to endorse approaches
6363 that take a piecemeal carve-out approach, is precisely
6364 because of what you are pointing out, which is that there are
6365 numerous categories of harmful behavior, and these are just
6366 the ones that we know about today. The ones that are going
6367 to happen in the future are going to be different, they are
6368 hard to anticipate.

6369 This is why I think that the most effective way of
6370 reforming Section 230 is to really focus on the fundamental
6371 problem of the perverse incentive structure. That is, that

6372 we need to ensure that this industry, like any other
6373 industry, has got to think about the possibility of being
6374 held accountable for harm, whether that is illegal conduct,
6375 whether that is harassment, whether that is bullying. They
6376 need to plan their resources, and allocate their resources,
6377 and think about their products along those lines, before they
6378 ever reach the public. They need to be afraid that they will
6379 be held accountable for the harms that they may contribute
6380 to.

6381 *Mr. Soto. And I understand the --

6382 *Mr. Doyle. The gentleman's time has expired.

6383 *Mr. Soto. Thank you. I yield back.

6384 *Mr. Doyle. The chair now recognizes Miss Rice for five
6385 minutes.

6386 *Miss Rice. Thank you, Mr. Chair. I think it is
6387 important for us to remember that the last time both houses
6388 of Congress agreed to change Internet liability laws was in
6389 2018, when Congress passed and the President signed the Stop
6390 Enabling Sex Trafficking Act, commonly referred to as
6391 SESTA/FOSTA.

6392 Now, even though not much time has passed since then, I
6393 believe our understanding of how online platforms operate,
6394 and how they are designed has evolved with the conversation
6395 about Section 230 liability protection in recent years.

6396 Ms. Goldberg, as an attorney who specializes in cases

6397 dealing with revenge porn and other online abuse, can you
6398 discuss whether and how SESTA/FOSTA has ever impacted your
6399 cases?

6400 *Ms. Goldberg. Sure. You know, as a basic, SESTA/FOSTA
6401 has come to be a bit problematic in my practice area, because
6402 it conflates child sex trafficking with consensual sex work.
6403 But I did plead SETA/FOSTA recently in the Omegle case that I
6404 told you about, which basically says that Omegle did
6405 facilitate sex trafficking on its platform when it matched my
6406 11-year-old client with a 37-year-old man who then forced her
6407 into sexual servitude for 3 years.

6408 They are going to still claim that they are immune from
6409 liability, and it is -- right now, SESTA/FOSTA is the best
6410 hope that we have when it comes to child sexual predation on
6411 these platforms.

6412 *Miss Rice. So, if you could, talk maybe more about the
6413 -- now, about the concerns that have been raised by many
6414 people about the impact on sex workers. You mentioned that
6415 before. But it is my understanding that SESTA/FOSTA amends
6416 Section 230 for state suits and some civil restitution suits
6417 dealing with sex trafficking and prostitution separately.
6418 And importantly, it also created new Federal criminal
6419 liability for websites that promote or facilitate
6420 prostitution.

6421 And so, in your opinion, how does the inclusion of

6422 criminal liability affect how SESTA/FOSTA operates?

6423 *Ms. Goldberg. Well, my understanding is that there has
6424 been one case that DoJ has brought against a platform for a
6425 SESTA/FOSTA, and that platforms basically lose their immunity
6426 for state prostitution laws, in addition to Federal.

6427 I mean, I think it does create a compelling scenario,
6428 when you could have a go-getter state prosecutor go and
6429 arrest Mark Zuckerberg for promoting sex trafficking on
6430 Facebook.

6431 But I think it really hasn't played out that much, and
6432 it has certainly created a lot of concern for sex workers,
6433 who feel that their lives are endangered by having to go back
6434 out onto the streets.

6435 *Miss Rice. Right, right. Well, thank you all so much
6436 for your time today.

6437 And Mr. Chairman, I yield back the balance of my time.

6438 *Mr. Doyle. The gentlelady yields back. The chair
6439 recognizes Ms. Eshoo for five minutes.

6440 *Ms. Eshoo. Thank you, Mr. Chairman, and thank you to
6441 the witnesses on this, the second panel. This may be one of
6442 the longest hearings that the chairman is overseeing, and I
6443 appreciate your patience. I think it is a long day for you,
6444 as well.

6445 To Ambassador Kornbluh, in your testimony -- and I ask
6446 this --

6447 [Audio malfunction.]

6448 *Ms. Eshoo. -- veteran of the House Intelligence
6449 Committee.

6450 In your testimony you discuss the national security risk
6451 that is associated with inaction on clarifying Section 230,
6452 and you especially mentioned how terrorists -- these online
6453 platforms. It is pretty chilling.

6454 So can you tell us more, and rather briefly, how
6455 terrorists use social media platforms?

6456 *Ms. Kornbluh. Am I on now? Yes. Thank you,
6457 Congressman, and thank you for your leadership on these
6458 issues.

6459 Just very quickly, in *Force v. Facebook*, the families of
6460 victims of a -- of terrorist attacks by Hamas, which is a
6461 U.S.-designated foreign terrorist organization, argued that
6462 Facebook allowed Hamas to post content that encouraged
6463 terrorist attacks in Israel, despite the fact that Facebook's
6464 own terms and policies barred use by designated foreign
6465 terrorist organizations; that the attackers allegedly saw the
6466 content, because Facebook's algorithms directed them into the
6467 personalized newsfeeds of the individuals who harmed the
6468 plaintiffs; and they also allege that Hamas used Facebook to
6469 celebrate the attacks, and to generally support further
6470 violence against Israel.

6471 And when the U.S. Court of Appeals for the 2nd Circuit

6472 ruled that Section 230(c)(1) shielded Facebook, Chief Judge
6473 Katzmann dissented, urging Congress to better calibrate where
6474 immunization is appropriate, in light of congressional
6475 purposes.

6476 And he added, "Shielding Internet companies that bring
6477 terrorists together using algorithms could leave dangerous
6478 activity unchecked," and that "Congress might want to
6479 consider whether or not allowing liability for tech companies
6480 that encourage terrorism, propaganda, and extremism is a
6481 question for legislators, not judges."

6482 We have a similar set of concerns in Gonzalez v. Google,
6483 where family members of an individual killed at the -- in the
6484 nightclub massacre in Istanbul sued, as well.

6485 *Ms. Eshoo. Well, this is really chilling, and it seems
6486 to me, as a non-lawyer, both in terms of testimony today, but
6487 also reading the, I think, really a very well-drawn memo on
6488 the part of the committee staff, that the courts are saying
6489 to Congress, "You need to do something about this."

6490 As I said earlier today, when the first panel -- that I
6491 was a conferee on the 1996 Telecom Act. We certainly did not
6492 write Section 230 to allow any social media platform to be
6493 able to undertake the activities that you describe. So thank
6494 you to you and your good work.

6495 For Mr. Wood, I really appreciate your thoughtful and
6496 nuanced testimony today. Can you just further elaborate on

6497 your recommendation that Congress should clarify the plain
6498 text of 230? You point to how the court's interpretation in
6499 Zeran v. AOL was overbroad. Can you --

6500 [Audio malfunction.]

6501 *Ms. Eshoo. -- Zeran?

6502 Now, that is the case from, what, 1997? That is a long
6503 time ago. How that has had, you know, created a precedent
6504 for how courts interpret Section 230 today -- I think in an
6505 overly broad way, but can you bring us up to date? Can you
6506 clarify that for us?

6507 *Mr. Wood. Yes, that is right. For a non-lawyer, you
6508 got it exactly right, 1997. And some plaintiffs have gotten
6509 over that hurdle in some products liability cases, in some
6510 cases, where, for instance, Snapchat was held liable for a
6511 filter they were providing and layering on top of -- or
6512 letting users layer on top of their own user-generated
6513 content. But Zeran has generally precluded any kind of
6514 liability, or at least let companies plead that they should
6515 have no liability any time there is user-generated content in
6516 the offing.

6517 And so, clarifying that would say there is a distinction
6518 between publication, where they are not liable, but something
6519 else, some kind of further knowledge, some kind of further
6520 amplification or distribution, whether it is algorithmically
6521 or not, so that there could be some relief for plaintiffs who

6522 see the company's own conduct either aiding and abetting the
6523 harm, or actually creating the harm all by itself with the
6524 connections they are drawing, and the kinds of engagement
6525 that they are profiting from, but obviously harming people in
6526 the process.

6527 *Ms. Eshoo. Okay, thank you.

6528 Mr. Chairman, on Mr. Volokh's written testimony, we
6529 received that about an hour before the hearing began today.
6530 I don't know if the committee had it earlier and distributed
6531 it later, or if it was just late, but we have -- in order to
6532 take advantage of it, we really need it the night before, so
6533 that, as we are preparing for the hearing, we can read the
6534 testimony, which is what I do the night before. So I don't
6535 know why or how --

6536 *Mr. Doyle. Yes, I don't have an answer for you, Anna,
6537 but --

6538 *Ms. Eshoo. But it was so late.

6539 *Mr. Doyle. -- we will --

6540 *Ms. Eshoo. Yes.

6541 *Mr. Doyle. We will check that out.

6542 *Ms. Eshoo. Yes.

6543 *Mr. Doyle. Okay, the gentlelady's time has expired.
6544 The chair recognizes Mr. Cardenas for five minutes.

6545 *Mr. Cardenas. Thank you much, Mr. Chairman and Ranking
6546 Member Latta, for having this important hearing.

6547 Earlier this year, I, alongside with Senator Lujan and
6548 Senator Klobuchar, sent letters to tech CEOs raising the
6549 alarm over the increasing rate of Spanish and other non-
6550 English misinformation and disinformation across digital
6551 information and platforms, and their lack of transparency
6552 regarding efforts to limit the spread of this harmful content
6553 for all languages, content that could and sometimes results
6554 in the loss of life.

6555 If platforms are still not investing in combating
6556 Spanish misinformation and other non-English information,
6557 Spanish language moderation efforts in social media sites,
6558 including Facebook's fail to tackle the widespread accounts
6559 of viral disinformation content targeting Hispanics and
6560 others, and also includes those promoting human smuggling,
6561 vaccine hoaxes, and election misinformation like I mentioned
6562 earlier. Some of this misinformation and disinformation
6563 results in the loss of life, and certainly in other
6564 horrendous actions that happen on victims.

6565 Mr. Wood, what can be done to ensure the integrity of
6566 consistent and equitable enforcement of content moderation
6567 policies across all languages in which platform operates, not
6568 just in English?

6569 *Mr. Wood. Yes, thank you, Representative Cardenas, for
6570 the question, and thank you for joining us in calling
6571 attention to this issue. It is something that Free Press has

6572 done a lot of work on, and my colleague, Carmen Scurato, who
6573 is here with me today, and others in our organization, have
6574 done tremendous work highlighting this grave disparity.

6575 I don't know that -- you know, obviously, 230 is central
6576 not only to this hearing, but everything that platforms do.
6577 I don't know that there is a 230 response to your question.
6578 We certainly think that these platforms, when they have terms
6579 of service that prohibit content, however clear or good those
6580 are -- people can debate -- should enforce them equitably,
6581 and not solely in English, leaving up in Spanish and other
6582 non-English languages the same kinds of disinformation they
6583 thought was harmful enough to take down in their English
6584 language feed, and for their English-speaking users.

6585 So there are transparency obligations that they should
6586 be fulfilling. They is just simply honoring their own terms
6587 of service. You know, I don't, as I said, see a 230 angle
6588 here, per se, but, obviously, 230 is central to everything.
6589 So could they be held liable for failing to honor their terms
6590 of service, and for engaging in unfair and deceptive acts and
6591 practices by the FTC?

6592 I think the answer is yes, but companies have -- and I
6593 think some have actually done this, not just contemplated it
6594 -- tried to raise a 230 defense, even against FTC
6595 enforcement, against that kind of unfair and deceptive
6596 application of their terms of service. So there might be

6597 something to button up there, as well, in any 230 reform that
6598 moves forward.

6599 *Mr. Cardenas. Well, Mr. Wood, I would believe that, if
6600 we actually reapplied Section 230 so that these massive,
6601 massive information organizations that are actually profiting
6602 from the proliferation of truths or lies -- and it appears,
6603 through the testimony we heard today through Ms. Haugen and
6604 others, is that lies tend to make them more money. Negative
6605 discourse seems to make them more money. Having people
6606 interact with each other on a negative basis actually gets
6607 them more money.

6608 So the fact that Section 230, they believe they can hide
6609 behind the non-liability, if we, as Congress, would exercise
6610 our authority and our responsibility to reset Section 230 to
6611 more clearly do so, that being the case, do you think that
6612 may offer a deterrent for them to ignore -- stop ignoring
6613 their ability to do more to protect people from harmful
6614 content?

6615 *Mr. Wood. Yes, I think it could. And, you know, as we
6616 have discussed, at least in our view, when platforms know
6617 they are causing the harm, that is different from merely
6618 publishing and posting the content in the first instance.

6619 I think what you are pointing to is the fact that, you
6620 know, as -- we are supporters of Section 230 at Free Press
6621 Action. We think it is an important piece of the law to

6622 retain. However, when platforms are described as having the
6623 time and energy and money to find out what people like, and
6624 connect them to each other, and really look at that personal
6625 data, and analyze it when it makes the money, but they don't
6626 have the time and attention and energy to do that when it is
6627 causing harm, you know, that is kind of hard to believe.
6628 That is where big companies like to wave the wand and say,
6629 "Well, we don't have -- this would be burdensome for us. It
6630 is really beyond our capacity.'" And yet they seem to find
6631 the time and the ability to do it when it adds to their
6632 bottom line.

6633 *Mr. Cardenas. Well, we --

6634 *Mr. Wood. So I think those are the kinds of questions
6635 that --

6636 *Mr. Cardenas. Mr. Wood, we --

6637 *Mr. Wood. -- we are not willing to accept those
6638 excuses --

6639 *Mr. Cardenas. We had testimony earlier from a
6640 whistleblower who clearly stated that Facebook alone, just
6641 that one platform, is going to be talking about a profit this
6642 year of tens of billions of dollars. And she clearly pointed
6643 out that, with facts and information that she divulged
6644 through her whistleblower actions, that those profits do soar
6645 when they ignore life, and what is best for the human
6646 interests of their viewers.

6647 Anyway, Mr. Chairman --

6648 *Mr. Doyle. The gentleman's time has expired.

6649 *Mr. Cardenas. -- I apologize. My time has expired. I
6650 yield back.

6651 *Mr. Doyle. I thank the gentleman. The chair now
6652 recognizes Ms. Kelly for five minutes.

6653 *Ms. Kelly. Thank you, Mr. Chair, and thank you all for
6654 testifying today, and thank you all for your patience.

6655 Dr. Franks, in your testimony you state that -- and I
6656 quote -- "The dominant business model of websites and social
6657 media services is based on advertising revenue. They have no
6658 natural incentive to discourage abusive or harmful conduct."

6659 One example I was particularly concerned about was a
6660 TikTok challenge at the school at the start of a school year
6661 that was encouraging students to destroy school property and
6662 slap teachers. Can you please explain how a model that
6663 prioritizes advertising revenue encourages social media
6664 platforms and other websites to promote more harmful or
6665 abusive information?

6666 *Dr. Franks. Yes, thank you. The advertising model
6667 essentially means that we are not asking people to pay for a
6668 product. That is to say people think that they are getting
6669 something for free. And so the only way for this to be
6670 profitable for an industry is for them to be able to sell you
6671 more and more ads that are more and more targeted.

6672 And what that sets up, in terms of the incentive
6673 structure for these companies, is to maximize what is
6674 euphemistically called engagement. What that means is we
6675 want people, essentially, to live on these platforms. We
6676 want them to be addicted to these products, and we want to
6677 learn as much about them as we possibly can.

6678 And so that is the kind of incentive structure that that
6679 Section 230 is allowing to flourish, essentially, without any
6680 kind of hindrance. Because if that is your entire model, you
6681 are not offering higher and higher quality, you are not
6682 telling people that the reason why they are paying for
6683 something is because you are giving them a better service.
6684 You are simply trying to keep them on that platform.

6685 And unfortunately, because of human nature, the things
6686 that keep people addicted, and keep them on a platform are
6687 things that are dangerous, provocative, political, extreme.
6688 And so that is the vicious cycle that we find ourselves in.

6689 *Ms. Kelly. Thank you. Also, how does the use of
6690 personalized algorithms or other profit-motivated design
6691 choices by some social media companies and other platforms
6692 amplify this problem?

6693 *Dr. Franks. In a couple of different directions. We
6694 can think, for instance, about particular kinds of
6695 vulnerabilities.

6696 So if someone -- if an industry is very well aware that

6697 the person that is using their platform is vulnerable to body
6698 images, if they are particularly vulnerable to suicidal
6699 thoughts, these are things that then the algorithm can feed
6700 them more and more of. And this is because of the way that
6701 the algorithm is picking up on those kinds of tendencies and
6702 vulnerabilities. And so that is one way in which
6703 personalized algorithms can lead to harm.

6704 The other is when the user, him or herself, is actually
6705 looking to cause harm, is looking for search terms, and for
6706 resources, and for ideas about how they can distribute their
6707 harm. And in that sense, too, based on what the individual
6708 him or herself is doing, that is something that they are
6709 putting into the system and getting back. Incredibly, an
6710 incredible array and entryways and rabbit holes to more and
6711 more extreme versions of content, and more and more ways to
6712 harm other people.

6713 *Ms. Kelly. Thank you.

6714 Ambassador, do you have anything you would like to add
6715 to this?

6716 *Ms. Kornbluh. Yes. One of the things that I think is
6717 often said is that the platforms have no incentive to cause
6718 these harms, that it would be a PR hit, and so their
6719 incentives actually run in the other direction.

6720 But what I worry about is that the incentives run
6721 towards doing these harms, that there is sort of a regulatory

6722 arbitrage, that the platforms, unlike other businesses, don't
6723 have to abide by so many of the laws that this Congress has
6724 and other past Congresses have passed.

6725 And so, you know, it has always been true that
6726 broadcasters and newspapers knew if it bleeds, it leads, that
6727 people will watch violence. But they didn't fill their
6728 entire program with bloody murders because they felt they had
6729 some obligation to show some other things.

6730 When the platforms don't follow those norms -- in many
6731 cases those weren't laws, they were just norms -- they can
6732 get more eyeballs, they can get more advertising dollars.
6733 But it is by breaking so many of the societally beneficial
6734 norms that we have.

6735 And similarly, with companies that operate on these
6736 platforms, and that -- you know, I talked to an international
6737 vaccine expert who said, "I feel as though the conspiracy
6738 theorists are using the engine of social media, and I am
6739 fighting the engine of social media.'"

6740 *Ms. Kelly. Thank you so much and, Mr. Chair, I will
6741 yield back.

6742 *Mr. Doyle. The gentlelady yields back.

6743 Well, I want to thank our witnesses for their
6744 participation today, for your patience, for your excellent
6745 answers to our members' questions. And it is going to be
6746 very helpful as we try to work together in a bipartisan way

6747 to get a bill that we can pass in the House, and get passed
6748 in the Senate, and have the President sign.

6749 And I know we still have a lot of work ahead of us, but
6750 we are committed to working with our colleagues in the
6751 Republican Party to put our heads together and come up with a
6752 good bill, and vet it thoroughly, and then put it before the
6753 Members. And you have all been very helpful in that process,
6754 so we appreciate it.

6755 I request unanimous consent to enter the following
6756 records into -- or testimony and letters into the record: a
6757 letter from the National Hispanic Media Coalition in support
6758 of H.R. 5596, the Justice Against Malicious Algorithms;
6759 statement from Preamble in support of H.R. 2154, the
6760 Protecting Americans from Dangerous Algorithms Act, and H.R.
6761 5596; a letter from the Coalition for a Safer Web in support
6762 of H.R. 5596, in addition to other pending committee
6763 legislation; a letter from the Anti-Defamation League in
6764 support of reforming Section 230 to hold platforms
6765 accountable; a letter from the Alliance to Counter Crime
6766 Online in support of Congress reforming Section 230 of the
6767 Communications Decency Act, and adopting transparency
6768 provisions; a letter from Victims of Illicit Drugs applauding
6769 Energy and Commerce Committee for efforts to reform 230; a
6770 letter from the Leadership Conference on Civil and Human
6771 Rights, expressing its views on the need for major tech

6772 companies to address threats to civil rights created or
6773 facilitated by their platforms; proposed revisions to
6774 Sections 230(c)(1) and (c)(2), from the Alliance of Counter
6775 Crime Online; a press release from the Coalition for a Safer
6776 Web; an article from MIT Technology Review titled, "Facebook
6777 and Google Fund Global Misinformation"; an article from Wall
6778 Street Journal titled, "Facebook Knows Instagram is Toxic for
6779 Teen Girls, Company Documents Show"; an article from The
6780 Wall Street Journal titled, "Facebook Says its Rules Apply to
6781 All, Company Documents Reveal a Secret Elite That is
6782 Exempt"; an article from Wall Street Journal titled,
6783 "Facebook Tried to Make its Platform a Healthier Place, It
6784 Got Angrier Instead"; opinion from the New York Times
6785 titled, "What is One of the Most Dangerous Toys for Kids?
6786 The Internet"; an article from Washington Post titled,
6787 "Facebook's Race Blind Practices Around Hate Speech Came at
6788 the Expense of Black Users, New Documents Show"; opinion by
6789 Bruce Reed and James Steyer in Protocol titled, "Why Section
6790 230 Hurts Kids, and What to Do About It"; a letter from the
6791 Chamber of Progress in support of the Safe Sex Worker Study
6792 Act; a statement by Guy Rosen, VP integrity, Meta, titled,
6793 "Update on Our Work to Keep People Informed and Limit
6794 Misinformation About COVID-19"; opinion by the Wall Street
6795 Journal editorial board titled, "Anthony Fauci and the Wuhan
6796 Lab"; a letter from the American Action Forum; remarks by

6797 then-President Trump, Vice President Pence, and members of
6798 the Coronavirus Task Force; and, finally, a letter from the
6799 Computer and Communications Industry Association.

6800 Without objection, so ordered.

6801 I remember -- remind members that, pursuant to committee
6802 rules, they have 10 business days to submit additional
6803 questions for the record to be answered by the witnesses who
6804 have appeared.

6805 I would ask each witness to respond promptly to any such
6806 questions you may receive.

6807 And, with that, the committee is adjourned.

6808 [Whereupon, at 6:01 p.m., the subcommittee was
6809 adjourned.]