

Committee on Energy and Commerce
Opening Statement as Prepared for Delivery
of
Full Committee Ranking Member Frank Pallone, Jr.

Hearing on “Where Are We Now: Section 230 Of The Communications Decency Act Of 1996”

April 11, 2024

We are here today to talk about Section 230 of the Communications Decency Act. Section 230 was codified nearly 30 years ago as a “Good Samaritan” statute designed to incentivize interactive computer services like websites to restrict harmful content. It has been critically important to the growth of the internet, particularly in its early stages. But much has changed in the last 30 years. And, unfortunately, in recent years, Section 230 has contributed to unchecked power for social media companies that has led to them operating their platforms in a state of lawlessness.

I’m pleased this hearing is bipartisan. Democrats and Republicans have come together recently to address challenges presented by the rising influence of Big Tech in our daily lives and the evolving communications landscape. Earlier this year, we worked together to address the dangers of allowing the Chinese Communist Party to control TikTok. We also passed my legislation with Chair Rodgers restricting the sale of Americans’ data to foreign adversaries. That bill unanimously passed the House last month – something that is almost unheard of in the House right now.

I am hopeful that we can continue to focus on the areas where Democrats and Republicans can agree – social media platforms are not working for the American people, especially our children. Whether it is videos glorifying suicide and eating disorders, dangerous viral challenges, merciless bullying and harassment, graphic violence, or drug sales, pervasive and targeted harmful content on these platforms is being fed nonstop to children and adults alike. Worse yet, the platforms are playing an active role in shaping these messages, connecting users to one another, promoting and curating this content, and monetizing it. Social media companies are putting their own profits ahead of the American people. And Section 230 is operating as a shield, allowing the social media companies to avoid accountability to the victims and to the public for their decisions.

The fact that this relatively simple provision of law now operates as near complete immunity shield for social media companies is due to egregious expansion and misinterpretation by years of judicial opinions. Congress should not wait for courts to reverse course—we must act now. There was a chance last year when the Supreme Court had the opportunity to decide the very important question of whether algorithmic amplification was protected by Section 230. Instead, the Court declined to offer an opinion and remanded the case back to the lower court. The Supreme Court’s inaction leaves the status quo in place – Bad Samaritans, who facilitate the most egregious and heinous activities, continue to receive protection from a statute intended to promote decency on the internet.

Unfortunately, the successful use of Section 230 as a shield in court has emboldened more companies to use this statute in ways far beyond its initial aims. Just recently, one voice provider invoked it to evade liability for fraudulent robocalls.

Despite all of this, some courts have started to more closely scrutinize the limits of the Section 230 shield. While these cases do not always result in platforms ultimately being held legally liable for harm, they have shed light on the important distinction between third-party content and the actions of the platforms themselves. Moreover, the recent success of these claims has poured cold water on the argument that limiting Section 230 immunity and allowing consumers to successfully sue social media platforms will destroy the internet as we know it.

However, this slow-moving, piecemeal approach is unsustainable. As one Circuit Court judge wrote in considering *Gonzalez v. Google*, “There is no question [Section 230] shelters more activity than Congress envisioned it would.” The judge went on to say that questions around broad interpretations of Section 230 immunity “are pressing questions that Congress should address.” And today marks a first step in trying to find a bipartisan solution to the Section 230 problem

The “get out of jail free card” enjoyed too often by Big Tech is an extraordinary protection afforded to almost no other industry. This protection is not appropriate and must be reformed. While online platforms have been a positive force for free speech and the exchange of ideas, too often they function more like funhouse mirrors, distorting our discourse and reflecting our worst qualities. The sad reality is this is often by design. Because the platforms are not passive bystanders – they knowingly choose profits over people and use Section 230 to avoid any accountability, with our children and our democracy paying the price.

I’m hopeful that, after hearing from these experts today, we can work together on long overdue fixes to Section 230. I look forward to the discussion, and I yield back the balance of my time.