

The Hon. Frank Pallone
Chair, Energy and Commerce Committee

The Hon. Greg Walden
Ranking Member, Energy and Commerce Committee

The Hon. Mike Doyle,
Chair, Communications and Technology Subcommittee

The Hon. Robert E. Latta
Ranking Member, Communications and Technology Subcommittee

The Hon. Jan Schakowsky
Chair, Consumer Protection and Commerce Subcommittee

The Hon. Cathy McMorris Rodgers
Ranking Member, Consumer Protection and Commerce Subcommittee

Dear Reps. Pallone, Walden, Doyle, Latta, Schakowsky and McMorris Rodgers:

Before your hearing on Section 230 of the Communications Decency Act and online content moderation, we ask you to consider the Consumer Technology Association's (CTA) views on Section 230 and its unique role in fueling American innovation.

Section 230 establishes the common-sense principle that responsibility for online speech lies with the speaker, not the platform. Equally important, Section 230 enables online platforms to remove offensive, obscene or hateful content without liability.

Section 230 does not provide legal immunity for sites hosting copyright-infringing material, nor does it provide protection for platforms violating federal criminal law.

The U.S. approach to online speech regulation has allowed American innovation to thrive. This approach is largely responsible for U.S. global online leadership, as well as our country's unique and dynamic startup economy. Because of Section 230, U.S. businesses are the global default choice for finance, communication and entertainment. Section 230 is so important that author and professor Jeffrey Kosseff termed the provision "the twenty-six words that created the Internet."

Internet platforms hosting third-party speech relying on Section 230 include job search sites, home-sharing platforms, social networks, online classified ads, cloud storage companies, podcast distributors, digital marketplaces and all newspapers or online publications with a comment section. Together, these platforms make up a major part of the daily Internet experience enjoyed by millions of Americans.

Without Section 230 protections, these platforms could face massive potential legal liability for any third-party post. Online sites would be barraged with litigation (frivolous and otherwise) from those angry with views expressed on the platform or those unhappy that their content has been taken down.

As a result, online platforms would be forced to over-moderate and take down speech that, while lawful, is also controversial or could conceivably lead to a lawsuit. As a result, the Internet would lose much of its vitality and usefulness as a platform for discussion and commerce.

While the Section 230 discussion often revolves around large Internet companies, these protections are most vital for small businesses and startups that do not have large legal departments or litigation budgets. In a non-Section 230 world, any startup hosting third party speech could face costly lawsuits from all corners of the Internet. Venture capitalists would be dissuaded from investing, and new competitors and market entrants would never get off the ground. America's uniquely vibrant Internet startup ecosystem is a direct result of the protections offered by Section 230.

Given Section 230's benefits to U.S. innovation, it is entirely appropriate that similar language be included in the United States–Mexico–Canada Agreement (USMCA) and other trade agreements. These trade agreement provisions ensure that U.S. businesses can continue to expand beyond our borders without foreign governments imposing new restrictions that could never be tolerated. More, the provisions promote key American values by discouraging our trading partners from unduly restricting online free expression and creating a totalitarian-style Internet. Finally, intermediary liability provisions in trade agreements reassure American small businesses seeking to participate in international markets that they will not be held liable for user-created speech, such as customer reviews.

It is ironic that while competitors like China are spending billions to catch up with American technology companies, some in Congress are contemplating dismantling the very legal structure that makes our leadership possible. This discussion is being encouraged by a variety of legacy industries unhappy with new and popular online competitors. U.S. policy should not be driven to protect incumbent business interests, models or hegemonies.

I urge your committees not to weaken our innovation economy and global technology leadership. Instead, I implore you to protect America's startups and entrepreneurs by safeguarding and preserving Section 230.

Sincerely,



Michael Petricone
Senior Vice President
Consumer Technology Association

cc: Members of the Subcommittee on Communications and Technology
Members of the Subcommittee on Consumer Protection and Commerce

What Others are Saying About Section 230

“Even if today’s internet giants can survive the loss of Section 230 and absorb the costs of censorship compliance, new market entrants likely can’t. Which means that hobbling 230 will stifle the competition that got us to today’s rich internet in the first place.”

- R Street Institute

“The legal protections provided by CDA 230 are unique to U.S. law...most prominent online services are based in the United States. This is in part because CDA 230 makes the U.S. a safe haven for websites that want to provide a platform for controversial or political speech and a legal environment favorable to free expression.”

- Electronic Frontier Foundation

“Given the staggering scale and breathtaking speed at which users post content online, there’s just no way for social networks to vet content the way newspapers vet letters to the editor. This makes Section 230’s shield against liability for user-generated content as essential to social networks as a broadcast license was for broadcasters.

- Tech Freedom

“Section 230 creates the breathing room not only for direct competitors to today’s dominant sites for user-generated content, but also for the development of completely alternative models for interactive online services.”

- Center for Democracy and Technology

“Section 230 does not protect only the large firms such as Facebook and Google, but rather continues to provide liability protection for large and small distributors alike... Congress recognized, as the courts had in several First Amendment cases for traditional media, that publisher and republisher liability chills the free exchange of controversial ideas and criticism.”

- Mercatus Center

“The Internet flourishes when social media platforms allow for discourse and debate without fear of a tidal wave of liability. Ending Section 230 would shutter this marketplace of ideas at tremendous cost.”

- Taxpayers Protection Alliance

Section 230 provides companies with a safe harbor to do what Congress cannot do under the First Amendment: decide to take down content that is offensive or otherwise not wanted on their platforms. Imposing liability on companies for their users’ content will incentivize platforms to err on the side of censorship and threaten free expression online.”

- New America’s Open Technology Institute