

Opening Statement of Republican Leader Greg Walden
Joint Hearing: Subcommittees on Communications and Technology and Consumer
Protection and Commerce
“Fostering a Healthier Internet to Protect Consumers”
October 16, 2019

As Prepared for Delivery

Thank you, Mr. Chairman. I want to welcome our witnesses to this hearing – it is without question a balanced roster of experts in the field. Last Congress, we held significant hearings that jump-started the discussion on the state of online protections, as well as the legal basis underpinning the modern internet ecosystem, and of course the future of content moderation as algorithms now determine much of what see online. Today, we will undertake a deeper review of Section 230 of the Communications Decency Act portion of the 1996 Telecommunications Act.

In August of this year, Chairman Pallone and I raised the issue of the appearance of export of language mirroring Section 230 in trade agreements in a letter to United States Trade Representative Robert Lighthizer. We expressed concerns of this internet policy being taken out of the context of its intent, and that in the future the Office of the United States Trade Representative should consult our committee in advance of negotiating on these issues. Unfortunately, we have learned that derivative language of Section 230 appeared in an agreement with Japan and continues to be advanced in other discussions. The USTR

does not appear to be reflecting the scrutiny the Administration itself is applying to how CDA 230 is being utilized in American society, making it even more alarming for the USTR to be exporting such policies without the involvement of this committee.

To be clear, this section of the `96 Telecom Act served as a foundation for the information age, so we are here by no means to condemn, but rather to understand what it truly is, and see that the entirety of the section is faithfully followed rather than cherry-picking just a portion. If we only refer to Section 230 as “the 26 words that created the internet,” as has been popularized by some, we are already missing the mark since, by my word count, that excludes the Good Samaritan obligations in section “c2.” We should start talking more about that section as the ***83 words that can preserve the internet***. All of the provisions of CDA 230 should be clearly taken together and not apart, and many of our concerns can be readily addressed if companies just enforce their terms of service. To put that in better context, I believe a quick history lesson is in order.

Today’s internet looks a lot different than when CompuServe, Prodigy, and the message boards dominated the internet in ‘90s. While the internet is more dynamic and content-rich today than ever before, there were problems in its infancy managing the vast amount of speech

occurring online. As our friend Chris Cox, the author of the legislation and an alum of this committee, pointed out on the House floor during debate over his amendment, “No matter how big the army of bureaucrats, it is not going to protect my kids because I do not think the Federal Government will get there in time.” So, Congress recognized then, as we should now, that we need companies to step up to the plate and curb harmful and illegal content from their platforms—the internet is not something to be regulated and managed by a government.

Upon enactment, CDA 230 clearly bestowed on providers and users the ability to go after the illegal and harmful content without fear of being held liable in court. While the law was intended to empower, we have seen social media platforms slow to clean up sites while being quick to use immunity from legal responsibility for such content. In some cases, internet platforms have clearly shirked responsibility for the content on their platform.

The broad liability shield now in place through common law has obscured the central bargain that was struck: internet platforms with user-generated content are protected from liability *in exchange for* the ability to make good faith efforts to moderate harmful and illegal content.

So, let me repeat for those that want to be included in the “interactive computer services” definition, enforce your own terms of service.

I look forward to an informative discussion today on differentiating Constitutionally-protected speech from illegal content; how we should think of CDA 230 protections for small entities versus large ones; and how various elements of the internet ecosystem shape what consumers see or don't see.

Again, I hope today's discussion will help us back on the road to a balance for the betterment of our society. Thank you again to our witnesses for sharing their time and expertise.