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RPTR MERTENS

EDTR CRYSTAL

FOSTERING A HEALTHIER INTERNET

TO PROTECT CONSUMERS

WEDNESDAY, OCTOBER 16, 2019

House of Representatives,

Subcommittee on Communications

and Technology,

joint with the

Subcommittee on Consumer Protection

and Commerce,

Committee on Energy and Commerce,

Washington, D.C.

The subcommittees met, pursuant to notice, at 10:01 a.m., in Room 2123, Rayburn House Office Building, Hon. Mike Doyle [chairman of the Subcommittee on Communications and Technology] presiding.

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Present: Representatives Doyle, Schakowsky, DeGette, Matsui, Castor, McNerney, Clarke, Loeb sack, Schrader, Dingell, Veasey, Kelly, Blunt Rochester, O'Halleran, Pallone (ex officio), Latta, Rodgers, Shimkus, Burgess, Guthrie, Kinzinger, Johnson, Brooks, Walberg, Carter, and Walden (ex officio).

Staff Present: AJ Brown, Counsel; Jeff Carroll, Staff Director; Sharon Davis, Chief Clerk; Parul Desai, FCC Detailee; Evan Gilbert, Deputy Press Secretary; Lisa Goldman, Senior Counsel; Tiffany Guarascio, Deputy Staff Director; Alex Hoehn-Saric, Chief Counsel, Communications and Consumer Protection; Zach Kahan, Outreach and Member Service Coordinator; Jerry Leverich, Senior Counsel; Dan Miller, Senior Policy Analyst; Phil Murphy, Policy Coordinator; Joe Orlando, Executive Assistant; Alivia Roberts, Press Assistant; Tim Robinson, Chief Counsel; Chloe Rodriguez, Policy Analyst; Andrew Souvall, Director of Communications, Outreach and Member Services; Sydney Terry, Policy Coordinator; Rebecca Tomilchik, Staff Assistant; Mike Bloomquist, Minority Staff Director; Michael Engel, Minority Detailee, Communications and Technology; Bijan Koohmaraie, Minority Deputy Chief Counsel, Consumer Protection and Commerce; Tim Kurth, Minority Chief Counsel, Consumer Protection and Commerce; Brannon Rains, Minority Legislative Clerk; Evan Viau, Minority Professional Staff, Communications and Technology; and Nate Wilkins, Minority Fellow, Communications and Technology.

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Mr. Doyle. The committee will now come to order. The chair now recognizes himself for 5 minutes for an opening statement.

Online content moderation has largely enabled the internet experience that we know today. Whether it is looking up restaurant reviews on Yelp, catching up on SNL on YouTube, or checking in on a friend or a loved one on social media, these are all experiences that we have come to know and rely on. And the platforms we go to to do these things have been enabled by user-generated content as well as the ability of these companies to moderate that content and create communities.

Section 230 of the Communications Decency Act has enabled that ecosystem to evolve. By giving online companies the ability to moderate content without equating them to the publisher or speaker of that content, we have enabled the creation of massive online communities of millions and billions of people to come together and interact.

Today, this committee will be examining that world that Section 230 has enabled, both the good and the bad.

I would like to thank the witnesses for appearing before us today. Each of you represents important perspectives related to the content moderation and the online ecosystem.

Many of you bring up complex concerns in your testimony, and I agree that this is a complex issue. I know that some of you have argued that Congress should amend 230 to address things such as online criminal activity, disinformation, and hate speech, and I agree these are serious issues.

Like too many other communities, my hometown of Pittsburgh has seen what

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unchecked hate can lead to. Almost a year ago, our community suffered the most deadly attack on Jewish Americans in our Nation's history. The shooter did so after posting a series of anti-Semitic remarks on a fringe site before finally posting that he was going in.

A similar attack occurred in New Zealand, and the gunman streamed his despicable acts on social media sites. And while some of these sites moved to quell that spread of that content, many didn't move fast enough, and the algorithms meant to help sports highlights and celebrity selfies go viral helped amplify a heinous act.

In 2016, we saw similar issues when foreign adversaries used the power of these platforms against us to disseminate disinformation and foment doubt in order to sow division and instill distrust in our leaders and institutions.

Clearly, we all need to do better, and I would strongly encourage the witnesses before us that represent these online platforms and other major platforms to step up.

The other witnesses on the panel bring up serious concerns with the kind of content available on your platforms and the impact that content is having on society. And as they point out, some of those impacts are very disturbing. You must do more to address these concerns.

That being said, Section 230 doesn't just protect the largest platforms or the most fringe websites. It enables comment sections on individual blogs, people to leave honest and open reviews, and free and open discussion about controversial topics.

The kind of ecosystem that has been enabled by more open online discussions has enriched our lives and our democracy. The ability of individuals to have voices heard, particularly marginalized communities, cannot be understated. The ability of people to post content that speaks truth to power has created political movements in this country

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and others that have changed the world we live in. We all need to recognize the incredible power this technology has for good as well as the risks we face when it is misused.

I want to thank you all again for being here, and I look forward today to our discussion.

And I would now like to yield the balance of my time to my good friend, Ms. Matsui.

[The prepared statement of Mr. Doyle follows:]

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Ms. Matsui. Thank you, Mr. Chairman.

I want to thank the witnesses for being here today.

In April 2018, Mark Zuckerberg came before Congress and said, "It was my mistake, and I am sorry," when pushed about Facebook's role in allowing Russia to influence the 2016 Presidential election.

Fast forward 555 days. I fear that Mr. Zuckerberg may not have learned from his mistake. Recent developments confirm what we have all feared. Facebook will continue to allow ads that push falsehoods and lies, once again making its online ecosystem fertile ground for election interference in 2020.

The decision to remove blatantly false information should not be a difficult one. The choice between deepfakes, hate speech, online bullies, and a fact-driven debate should be easy. If Facebook doesn't want to play referee about the truth in political speech, then they should get out of the game.

I hope this hearing produces a robust discussion because we need it now more than ever.

Mr. Chairman, I yield back. Thank you.

[The prepared statement of Ms. Matsui follows:]

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Mr. Doyle. Thank you. The gentlelady yields back.

The chair now recognizes Mr. Latta, the ranking member for the subcommittee, for 5 minutes for his opening statement.

Mr. Latta. Well, thank you, Mr. Chairman, for holding today's hearing.

And thank you very much to our witnesses for appearing before us. And, again, welcome to today's hearing on content moderation and a review of Section 230 of the Communications Decency Act.

This hearing is a continuation of a serious discussion we began last session as to how Congress should examine the law and ensure accountability and transparency for the hundreds of millions of Americans using the internet today.

We have an excellent panel of witnesses that represent a balanced group of stakeholders who perform work closely tied to Section 230. They range from large to small companies as well as academics and researchers.

Let me be clear: I am not advocating that Congress repeal the law, nor am I advocating that Congress consider niche carveouts that could lead to a slippery slope of the death by a thousand cuts that some have argued would upend the internet industry if the law was entirely repealed.

But before we discuss whether or not Congress should make modest, nuanced modifications to the law, we should first understand how we got to this point. It is important to look at Section 230 in context and when it was written. At the time, the decency portion of the Telecom Act of 1996 included other prohibitions on objectionable or lewd content that precluded the early internet. Provisions that were written to target obscene content were ultimately struck down by the Supreme Court, but the

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Section 230 provisions remained.

Notably, CDA 230 was intended to encourage internet platforms that interact with computer services like CompuServe and America Online to proactively take down offensive content. As Chris Cox stated on the House floor, "We want to encourage people like Prodigy, like CompuServe, like America Online, like the new Microsoft network, to do everything possible for us, the consumer, to help us control, at the portals of our computer, at the front door of our house what comes in and what our children see."

It is unfortunate, however, that the courts took such a broad interpretation of Section 230, simply granting a broad liability protection without platforms having to demonstrate that they are doing, quote, "everything possible." Instead of encouraging use of the sword that Congress envisioned, numerous platforms have hidden behind the shield and use procedural tools to avoid litigation without having to take the responsibility.

Not only are good Samaritans sometimes being selective in taking down harmful or illegal activity, but Section 230 has been interpreted so broadly that bad Samaritans can skate by without accountability.

That is not to say all platforms never use the tools afforded by Congress. Many do great things. Many of the bigger platforms make billions, and that is with a "b," accounts annually. But oftentimes these instances are the exception, not the rule.

Today we will dig deeper into those examples and learn how platforms decide to remove content, whether it is with the tools provided by Section 230 or with their own self-constructed terms of service. Under either authority, we should be encouraging enforcement to continue.



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Mr. Chairman, I thank you for holding this important hearing so that we can have an open discussion on Congress' intent of CDA 230 and if we should reevaluate the law. We must ensure that platforms are held reasonably accountable for activity on their platform without drastically affecting the innovative startups.

And with that, Mr. Chairman, I yield back the balance of my time.

[The prepared statement of Mr. Latta follows:]

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Mr. Doyle. The gentleman yields back.

I should have mentioned this is a joint hearing between our committee and the Committee on Consumer Protection and Commerce. And I would like to recognize the chair of that committee for 5 minutes, Ms. Schakowsky.

Ms. Schakowsky. Thank you, Mr. Chairman.

And good morning and thank all the panelists for being here today.

The internet certainly has improved our lives in many, many ways and enabled Americans to more actively participate in society, education, and commerce.

Section 230 of the Communications Decency Act has been at the heart of the United States internet policy for over 20 years. Many say that this law allowed free speech to flourish, allowing the internet to grow into what it is today.

In the early days of the internet, it was intended to encourage online platforms to moderate user-generated content, to remove offensive, dangerous, or illegal content.

The internet has come a long way since the law was first enacted. The amount and sophistication of user postings has increased exponentially.

Unfortunately, the number of Americans who report experiencing extremism, extreme online harassment, which includes sexual harassment, stalking, bullying, and threats of violence, have gone up. Over the last 2 years, 37 percent of users say that they have experienced that this year. Likewise, extremism, hate speech, election interference, and other problematic content is proliferating.

The spread of such content is problematic, that is for sure, and actually causes some real harm that multi-billion-dollar companies like Facebook, Google, and Twitter can't or won't fix.

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And if this weren't enough cause for concern, more for-profit businesses are attempting to use Section 230 as a liability shield actively, that they have nothing to do with third-party content or content moderation policy.

In a recent Washington Post article, Uber executives seemed to be opening the door to claiming vast immunity from labor, criminal, and local traffic liability based on Section 230. This would represent a major unraveling of 200 years of social contracts, community governance, and congressional intent.

Also at issue is the Federal Trade Commission's Section 5 authority on unfair or deceptive practices. The FTC pursues Section 5 cases on website-generated content, but the terms of service violations for third-party content may also be precluded by the 230 immunity.

I wanted to talk a bit about injecting 230 into trade agreements. It seems to me that we have already seen that now in the Japan trade agreement, and there is a real push to include that now in the Mexico-Canada-U.S. trade agreement. There is no place for that. I think that the laws in these other countries don't really accommodate what the United States has done about 230.

The other thing is we are having a discussion right now, an important conversation about 230, and in the midst of that conversation, because of all the new developments, I think it is just inappropriate right now at this moment to insert this liability protection into trade agreements.

As a member of the working group that is helping to negotiate that agreement, I am pushing hard to make sure that it just isn't there. I don't think we need to have any adjustment to 230. It just should not be in trade agreements.

So all of the issues that we are talking about today indicate that there may be a

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larger problem that 230 no longer is achieving the goal of encouraging platforms to protect their users. And today I hope that we can discuss holistic solutions, not talking about eliminating 230 but having a new look at that in the light of the many changes that we are seeing into the world of big tech right now.

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I look forward to hearing from our witnesses and how it can be made even better for consumers.

And I yield back. Thank you.

[The prepared statement of Ms. Schakowsky follows:]

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Mr. Doyle. The gentlelady yields back.

The chair now recognizes the ranking member of the committee, Mrs. McMorris Rodgers.

Mrs. Rodgers. Good morning. Welcome to today's joint hearing on online content management.

As the Republican leader on the Consumer Protection and Commerce Subcommittee, it is my priority to protect consumers while preserving the ability for small businesses and startups to innovate. In that spirit, today we are discussing online platforms in Section 230 of the Communications Decency Act.

In the early days of the internet, two companies were sued for content posted on their website by users. One company sought to moderate content on their platform; the other did not. In deciding these cases, the court found the company that did not make any content decisions was immune from liability, but the company that moderated content was not.

It was after these decisions that Congress created Section 230. Section 230 is intended to protect, quote, interactive computer services from being sued over what users post while also allowing them to moderate content that may be harmful, illicit, or illegal.

This liability protection has played a critical and important role in the way we regulate the internet. It has allowed small businesses and innovators to thrive online without the fear of frivolous lawsuits from bad actors looking to make a quick buck.

Section 230 is also largely misunderstood. Congress never intended to provide immunity only to websites who are, quote, neutral. Congress never wanted platforms

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to simply be neutral conduits but, in fact, wanted platforms to moderate content. The liability protection also extended to allow platforms to make good faith efforts to moderate material that is obscene, lewd, excessively violent, or harassing.

There is supposed to be a balance to the use of Section 230. Small internet companies enjoy a safe harbor to innovate and flourish online while also incentivizing companies to keep the internet clear of offensive and violent content by empowering these acts to act and to clean up their own site.

The internet also revolutionized the freedom of speech by providing a platform for every American to have their voice heard and to access an almost infinite amount of information at their fingertips. Medium and other online blogs have provided a platform for anyone to write an op-ed. Wikipedia provides free, in-depth information on almost any topic you can imagine through mostly user-generated and moderated content. Companies that started in dorm rooms and garages are now global powerhouses.

We take great pride in being the global leader in tech and innovation. But while some of our biggest companies certainly have grown, have they matured? Today it is often difficult to go online without seeing harmful, disgusting, or somewhat illegal content.

To be clear, I fully support free speech and believe society strongly benefits from open dialogue and free expression online. I know that there has been some calls for big government to mandate or dictate free speech or ensure fairness online, and it is coming from both sides of the aisle.

Though I share similar concerns that others have expressed that are driving some of these policy proposals, I do not believe these proposals are consistent with the first

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amendment. Republicans successfully fought to repeal the FCC's Fairness Doctrine for broadcast regulation during the 1980s, and I strongly caution against advocating for a similar doctrine online.

It should not be the FCC, FTC, or any other government agency's job to moderate free speech online. Instead, we should continue to provide oversight of big tech and their use of Section 230 and encourage constructive discussions on the responsible use of content moderation.

This is a very important question that we are going to explore today with everyone on the panel. How do we ensure that companies with enough resources are responsibly earning their liability protection? We want companies to benefit not only from the shield but also use the sword Congress afforded them to rid their sites of harmful content.

I understand it is a delicate issue and certainly very nuanced. I want to be very clear: I am not for gutting Section 230. It is essential for consumers and entities in the internet ecosystem. Misguided and hasty attempts to amend or even repeal Section 230 for bias or other reasons could have unintended consequences for free speech and the ability for small businesses to provide new and innovative services.

But at the same time, it is clear we have reached a point where it is incumbent upon us as policymakers to have a serious and thoughtful discussion about achieving the balance on Section 230.

I thank you for the time, and I yield back.

[The prepared statement of Mrs. Rodgers follows:]

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Mr. Doyle. The gentlelady yields back.

The chair now recognizes Mr. Pallone, chairman of the full committee, for 5 minutes for his opening statement.

The Chairman. Thank you, Chairman Doyle.

The internet is one of the single greatest human innovations. It promotes free expression, connections, and community. It also fosters economic opportunity, with trillions of dollars exchanged online every year.

One of the principal laws that paved the way for the internet to flourish is Section 230 of the Communications Decency Act which, of course, passed as part of Telecommunications Act of 1996. And we enacted this section to give platforms the ability to moderate their sites to protect consumers without excessive risk of litigation, and to be clear, Section 230 has been an incredible success.

But in the 20 years since Section 230 became law, the internet has become more complex and sophisticated. In 1996, the global internet reached only 36 million users or less than 1 percent of the world's population. Only one in four Americans reported going online every day.

Compare that to now when nearly all of us are online almost every hour that we are not sleeping. Earlier this year, the internet passed 4.39 billion users worldwide. And here in the U.S., there are about 230 million smartphones that provide Americans instant access to online platforms. The internet has become a central part of our social, political, and economic fabric in a way that we couldn't have dreamed of when we passed the Telecommunications Act.

And with that complexity and growth, we also have seen the darker side of the

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internet grow. Online radicalization has spread, leading to mass shootings in our schools, churches, and movie theaters. International terrorists are using the internet to groom recruits. Platforms have been used for the illegal sale of drugs, including those that sparked the opioid epidemic. Foreign governments and fraudsters have pursued political disinformation campaigns using new technology like deepfakes designed to sow civil unrest and disrupt democratic elections. And there are consent attacks against women, people of color, and other minority groups.

And perhaps most despicable of all is the growth in the horrendous sexual exploitation of children online. In 1998, there were 3,000 reports of material depicting the abuse of children online. Last year, 45 million photo and video reports were made. And while platforms are now better at detecting and removing this material, recent reporting shows that law enforcement officers are overwhelmed by the crisis.

And these are all issues that we can't ignore, and tech companies need to step up with new tools to help address these serious problems. Each of these issues demonstrates how online content moderation has not stayed true to the values underlying Section 230 and has not kept pace with the increasing importance of the global internet.

And there is no easy solution to keep this content off the internet. As policymakers, I am sure we all have our ideas about how we might tackle the symptoms of poor content moderation online while also protecting free speech, but we must seek to fully understand the breadth and depth of the internet today, how it has changed, and how it can be made better. We have to be thoughtful, careful, and bipartisan in our approach.

So it is with that in mind that I was disappointed that Ambassador Lighthizer, the

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U.S. Trade Representative, refused to testify today. The U.S. has included language similar to Section 230 in the United States-Mexico-Canada Agreement and the U.S.-Japan Trade Agreement.

Ranking Member Walden and I wrote to the ambassador in August raising concerns about why the USTR has included this language in trade deals as we debate them across the Nation, and I was hoping to hear his perspective on why he believes that that was appropriate, because including provisions in trade agreements that are controversial to both Democrats and Republicans is not the way to get support from Congress, obviously. So hopefully the ambassador will be more responsive to bipartisan requests in the future.

And with that, Mr. Chairman, I will yield back.

[The prepared statement of The Chairman follows:]

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Mr. Doyle. The gentleman yields back.

The chair would like to remind members that, pursuant to committee rules, all members' written opening statements shall be made part of the record.

Oh.

Mr. Walden. Could mine be made part of it?

Mr. Doyle. I apologize. The chair now yields to my good friend, the ranking member, for 5 minutes.

Mr. Walden. How times have changed.

Thank you, Mr. Chairman.

And I want to welcome our witnesses today. Thank you for being here. It is really important work.

And I will tell you at the outset, we have got another subcommittee meeting upstairs, so I will be bouncing in between. But I have all your testimony and really look forward to your comments. It is, without question, a balanced roster of experts in this field, so we are really blessed to have you here.

Last Congress, we held significant hearings that jump-started the discussion on the state of online protection as well as the legal basis underpinning the modern internet ecosystem, as you have heard today, and of course the future of content moderation as algorithms now determine much of what we see online. That is an issue our constituents want to know more about.

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, as you just heard, Chairman Pallone and I raised the issue of

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the appearance of export language mirroring Section 230 in trade agreements. We did that in a letter to the U.S. 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 very 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. We are very frustrated about that, and I hope the administration is paying attention and listening because they haven't up to this point on this matter.

The USTR does not appear to be reflecting the scrutiny the administration itself says they are applying to how CDA 230 is being utilized in American society. That makes 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 1996 Telecom Act served as the foundation for the information age. So we are here by no means to condemn but rather to understand what truly is and see that the entirety of this section is faithfully followed rather than cherrypicking just a portion.

I want to go back to the trade piece. You know, I thought the letter to the ambassador was going to send the right message. We are not trying to blow up USTR or USMCA. I voted for every trade agreement going forward. I am a big free trader. But we are getting blown off on this, and I am tired of it. So let it be clear.

Then we found out it is in the Japan agreement. So, you know, clearly they are not listening to our committee or us. So we are serious about this matter. We have not heard from USTR, and this is a real problem. So take note.

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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 our word count, which you can use software to figure out, that excludes the good Samaritan obligations in Section (c)(2). So we should start talking more about that section as the 83 words that can preserve the internet.

All the sections and provisions of CDA 230 should be clearly taken together and not apart. 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 the days that CompuServe and Prodigy and the message boards dominated the internet in the 1990s. While the internet is more dynamic and content rich than ever before, there were problems in its infancy managing the vast amounts of speech occurring online.

As our friend Chris Cox, former Member, the author of the legislation, 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." That is his quote.

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 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.

Now, 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

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responsibility for such content. In some cases, internet platforms have clearly shirked the 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, and that is the 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.

With that Mr. Chairman, thank you for having this hearing, and I look forward to getting all the feedback from the witnesses, but, indeed, I have to go up to the other hearing. So thank you very much.

[The prepared statement of Mr. Walden follows:]

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Mr. Doyle. So the administration doesn't listen be to you guys either, huh?

Mr. Walden. My statement spoke for itself pretty clearly, I think. We will find out if they are listening or not.

Mr. Doyle. The gentleman yields back.

I will reiterate that, pursuant to the committee rules, all members' written opening statements will be made part of the record.

We now want to introduce our witnesses for today's hearing.

Mr. Steve Huffman, co-founder and CEO of Reddit.

Welcome.

Ms. Danielle Keats Citron, professor of law at Boston University School of Law.

Welcome.

Dr. Corynne McSherry, legal director of the Electronic Frontier Foundation.

Welcome.

Ms. Gretchen Peters, executive director of the Alliance to Counter Crime Online.

Welcome.

Ms. Katherine Oyama, global head of intellectual property policy for Google.

Welcome.

And Dr. Hany Farid, professor at the University of California, Berkeley.

Welcome to all of you. We want to thank you for joining us today. We look forward to your testimony.

At this time, the chair will recognize each witness for 5 minutes to provide their opening statement.

Before we begin, I would like to explain our lighting system. In front of you is a



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series of lights. The light will initially be green at the start of your opening statement.

The light will turn yellow when you have 1 minute remaining. Please wrap up your testimony at that point. When the light turns red, we just cut your microphone off.

No, we don't, but try to finish before then.

So, Mr. Huffman, we are going to start with you, and you are recognized for 5 minutes.

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**STATEMENTS OF STEVE HUFFMAN, CO-FOUNDER AND CEO, REDDIT, INC.; DANIELLE KEATS CITRON, PROFESSOR OF LAW, BOSTON UNIVERSITY SCHOOL OF LAW; CORYNNE MCSHERRY, LEGAL DIRECTOR, ELECTRONIC FRONTIER FOUNDATION; HANY FARID, PROFESSOR, UNIVERSITY OF CALIFORNIA, BERKELEY; KATHERINE OYAMA, GLOBAL HEAD OF ECONOMIC PROPERTY POLICY, GOOGLE, INC.; GRETCHEN S. PETERS, EXECUTIVE DIRECTOR, ALLIANCE TO COUNTER CRIME ONLINE**

#### **STATEMENT OF STEVE HUFFMAN**

Mr. Huffman. Thank you. Good morning, Chairpersons, Ranking Members, members of the committee. Thank you for inviting me. My name is Steve Huffman. I am the co-founder and CEO of Reddit, and I am grateful for this opportunity to share why 230 is critical to our company and the open internet.

Reddit moderates content in a fundamentally different way than other platforms. We empower communities, and this approach relies on 230. Changes to 230 pose an existential threat not just to us but to thousands of startups across the country, and it would destroy what little competition remains in our industry.

My college roommate and I started Reddit in 2005 as a simple user-powered forum to find news and interesting content. Since then, it has grown into a vast community-driven site where millions of people find not just news and a few laughs but new perspectives and a real sense of belonging. Reddit is communities, communities that are both created and moderated by our users.

Our model has taken years to develop with many hard lessons learned along the

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way. As some of you know, I left the company in 2009, and for a time Reddit lurched from crisis to crisis over questions of moderation that we are discussing today.

In 2015, I came back because I realized the vast majority of our communities were providing an invaluable experience for our users and Reddit needed a better approach to moderation.

The way Reddit handles content moderation today is unique in the industry. We use a governance model akin to our own democracy where everyone follows a set of rules, has the ability to vote and self-organize, and ultimately shares some responsibility for how the platform works.

First, we have our content policy, the fundamental rules that everyone on Reddit must follow. Think of these as our Federal laws. We employ a group, including engineers and data scientists, collectively known as the "Anti-Evil" Team, to enforce these policies.

Below that, each community creates their own rules, State laws, if you will. These rules, written by our volunteer moderators themselves, are tailored to the unique needs of their communities and tend to be far more specific and complex than ours.

The self-moderation our users do every day is the most scalable solution to the challenges of moderating content online.

Individual users play a crucial role as well. They can vote up or down on any piece of content, posts or comments, and report it to our Anti-Evil Team. Through this system of voting and reporting, users can accept or reject any piece of content, thus turning every user into a moderator.

The system isn't perfect. It is possible to find things on Reddit that break the rules. But its effectiveness has improved with our efforts. Independent academic

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analysis has shown our approach to be largely effective in curbing bad behavior.

And when we investigated Russia attempts at manipulating our platform in 2016, we found that, of all accounts that tried, less than 1 percent made it past the routine defenses of our team, community moderation, and simple down votes from everyday users.

We also constantly evolve our content policies, and since my return we have made a series of updates addressing violent content, deepfaked pornography, controlled goods, and harassment.

These are just a few of the ways we have worked to moderate in good faith, which brings us to the question of what Reddit would look like without 230.

For starters, we would be forced to defend against anyone with enough money to bankroll a lawsuit, no matter how frivolous. It is worth noting that the cases most commonly dismissed under 230 are regarding defamation. As an open platform where people are allowed to voice critical opinions, we would be a prime target for these, effectively enabling censorship through litigation.

Even targeted limits to 230 will create a regulatory burden on the entire industry, benefiting the largest companies by placing a significant cost on smaller competitors.

While we have 500 employees and a large user base, normally more than enough to be considered a large company, in tech today we are an underdog compared to our nearest competitors, who are public companies 10 to 100 times our size. Still, we recognize that there is truly harmful material on the internet, and we are committed to fighting it.

It is important to understand that rather than helping, even narrow changes to 230 can undermine the power of community and hurt the vulnerable. Take the opioid

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epidemic, which has been raised in discussions on 230. We have many communities on Reddit where users struggling with addiction can find support to help them on their way to sobriety.

Were there a carveout in this area, posting them may simply become too risky, forcing us to close them down. This would be a disservice to people who are struggling, yet this is exactly the type of decision that restrictions on 230 would force on us.

Section 230 is a uniquely American law with a balanced approach that has allowed the internet and platforms like ours to flourish while also incentivizing good faith attempts to mitigate the unavoidable downsides of free expression. While these downsides are serious and demand the attention of both us and industry and you in Congress, they do not outweigh the overwhelming good that 230 has enabled.

Thank you. I look forward to your questions.

[The prepared statement of Mr. Huffman follows:]

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Mr. Doyle. Thank you, Mr. Huffman.

Ms. Citron, you are recognized for 5 minutes.

#### **STATEMENT OF DANIELLE KEATS CITRON**

Ms. Citron. Thank you for having me and for having such a thoughtful bench with me on the panel.

When Congress adopted Section 230 twenty years ago, the goal was to incentivize tech companies to moderate content. And although Congress, of course, wanted the internet, what they could imagine it at that time to be open and free, they also knew that openness would risk offensive material, and I am going to use their words. And so what they did was devise an incentive, a legal shield for good Samaritans who are trying to clean up the internet, both accounting for the failure to remove, so underfiltering, and overfiltering of content.

Now, the purpose of the statute was fairly clear, but its interpretation, the words weren't, and so what we have seen are courts massively overextending Section 230 to sites that are irresponsible in the extreme and that produce extraordinary harm. Now, we have seen the liability shield be applied to sites whose entire business model is abuse. So revenge porn operators and sites that all they do is curate users' deepfake sex videos, they get to enjoy immunity, and have, from liability.

And interestingly, not only is it bad Samaritans who have enjoyed the legal shield from responsibility, but it is also sites that really have nothing to do with speech, that

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traffic in dangerous goods, like Armslist.com. And the costs are significant. This overbroad interpretation allows bad Samaritan sites, reckless, irresponsible sites, to really have costs on people's lives.

I am going to take the case of online harassment because I have been studying it for the past 10 years. The costs are significant, and especially to women and minorities. Online harassment that is often hosted on these sites is costly to people's central life opportunities.

So when a Google search of your name contains rape threats, your nude photo without your consent, your home address because you have been doxxed, and lies and defamation about you, it is hard to get a job and it is hard to keep a job. And also for victims, they are driven offline in the face of online assaults. They are terrorized. They often change their names, and they move.

And so in many respects, the calculus, the free speech calculus, it is not necessarily a win for free speech, as we are seeing really diverse viewpoints and diverse individuals being chased offline.

So now the market, I think, ultimately is not going to solve this problem. So many of these businesses, they make money off of online advertising and salacious, negative, and novel content that attracts eyeballs. So the market itself I don't think we can rely on to solve this problem.

So, of course, legal reform. The question is, how should we do it?

I think we have to keep Section 230. It has tremendous upsides. But we should return it to its original purpose, which was to condition the shield on being a good Samaritan, on engaging in what Ben Wittes and I have called reasonable content moderation practices.

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Now, there are other ways to do it. In my testimony, I sort of draw up some solutions. But we have got to do something because doing nothing has cost. It says to victims of online abuse that their speech and their equality is less important than the business profits of some of these most harmful platforms.

Thank you.

[The prepared statement of Ms. Citron follows:]

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Mr. Doyle. Thank you very much.

The chair now recognizes Dr. McSherry for 5 minutes.

#### **STATEMENT OF CORYNNE MCSHERRY**

Ms. McSherry. Thank you.

As legal director for the Electronic Frontier Foundation, I want to thank the chairs, ranking members, and members of the committee for the opportunity to share our thoughts with you today on this very, very important topic.

For nearly 30 years, EFF has represented the interests of technology users, both in court cases and in broader policy debates, to help ensure that law and technology supports our civil liberties.

Like everyone in this room, we are well aware that online speech is not always pretty. Sometimes it is extremely ugly and it causes serious harm. We all want an internet where we are free to meet, create, organize, share, debate, and learn. We want to have control over our online experience and to feel empowered by the tools we use. We want our elections free from manipulation and for women and marginalized communities to be able to speak openly about their experiences.

Chipping away at the legal foundations of the internet in order to pressure platforms to better police the internet is not the way to accomplish those goals.

Section 230 made it possible for all kinds of voices to get their message out to the whole world without having to acquire a broadcast license, own a newspaper, or learn how to code. The law has thereby helped remove much of the gatekeeping that once

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stifled social change and perpetuated power imbalances, and that is because it doesn't just protect tech giants. It protects regular people.

If you forwarded an email, a news article, a picture, or a piece of political criticism, you have done so with the protection of Section 230. If you have maintained an online forum for a neighborhood group, you have done so with the protection of Section 230. If you used Wikipedia to figure out where George Washington was born, you benefited from Section 230. And if you are viewing online videos documenting events realtime in northern Syria, you are benefiting from Section 230.

Intermediaries, whether social media platforms, news sites, or email forwarders, aren't protected by Section 230 just for their benefit. They are protected so they can be available to all of us.

There is another very practical reason to resist the impulse to amend the law to pressure platforms to more actively monitor and moderate user content. Simply put, they are bad at it. As EFF and many others have shown, they regularly take down all kinds of valuable content, partly because it is often difficult to draw clear lines between lawful and unlawful speech, particularly at scale, and those mistakes often silence the voices of already marginalized people.

Moreover, increased liability risk will inevitably lead to overcensorship. It is a lot easier and cheaper to take something down than to pay lawyers to fight over it, particularly if you are a smaller business or a nonprofit.

And automation is not the magical solution. Context matters very often when you are talking about speech, and robots are pretty bad at nuance.

For example, in December 2018, blogging platform Tumblr announced a new ban on adult content. In an attempt to explain the policy, Tumblr identified several types of

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content that would still be acceptable under the new rules. Shortly thereafter, Tumblr's own filtering technology flagged those same images as unacceptable.

Here is the last reason. New legal burdens are likely to stifle competition. Facebook and Google can afford to throw millions at moderation, automation, and litigation. Their smaller competitors or would-be competitors don't have that kind of budget. So in essence, we would have opened the door to a few companies and then slammed that door shut for everyone else.

The free and open internet has never been fully free or open, and the internet can amplify the worst of us as well as the best. But at root, the internet still represents and embodies an extraordinary idea: that anyone with a computing device can connect with the world to tell their story, organize, educate, and learn. Section 230 helps make that idea a reality, and it is worth protecting.

Thank you, and I look forward to your questions.

[The prepared statement of Ms. McSherry follows:]

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Mr. Doyle. Thank you, Dr. McSherry.

Ms. Peters, you are recognized for 5 minutes.

#### **STATEMENT OF GRETCHEN S. PETERS**

Ms. Peters. Thank you.

Distinguished members of the subcommittee, it is an honor to be here today to discuss one of the premier security threats of our time, one that Congress is well positioned to solve.

I am the executive director of the Alliance to Counter Crime Online. Our team is made up of academics, security experts, NGOs, and citizen investigators who have come together to eradicate serious organized crime and terror activity on the internet.

I want to thank you for your interest in our research and for asking me to join the panel of witnesses here to testify. Like you, I hope to hear the testimony of the U.S. Trade Representative, because keeping CDA 230 language out of America's trade agreements is critical to our national security.

Distinguished committee members, I have a long history of tracking organized crime and terrorism. I was a war reporter, and I wrote a book about the Taliban and the drug trade. That got me recruited by U.S. military leaders to support our intelligence community. I mapped transnational crime networks and terror networks for Special Operations Command, the DEA, and CENTCOM. In 2014, I received State Department funding to map wildlife supply chains, and that is when my team discovered that the largest retail markets for endangered species are actually located on social media

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platforms like Facebook and WeChat.

Founding the Alliance to Counter Crime Online, which looks at crime more broadly than just wildlife, has taught me the incredible range and scale of illicit activity happening online. It is far worse than I ever imagined. We can and must get this under control.

Under the original intent of CDA 230, there was supposed to be a shared responsibility between tech platforms, law enforcements, and organizations like ACCO. But tech firms are failing to uphold their end of the bargain. Because of broad interpretations by the courts, they enjoy undeserved safe harbor for hosting illicit activity.

Distinguished committee members, the tech industry may try and convince you today that most illegal activity is confined to the dark web, but that is not the case. Surface web platforms provide much the same anonymity, payment systems, and a much greater reach of people.

We are tracking illicit groups ranging from Mexican drug cartels to Chinese triads that have weaponized social media platforms, I am talking about U.S. publicly listed social media platforms, to move a wide range of illegal goods. Now we are in the midst of a public health crisis, the opioid epidemic, which is claiming the lives of more than 60,000 Americans a year.

But Facebook, the world's largest social media company, only began tracking drug activity, drug postings on its platform last year, and within 6 months, the firm identified 1.5 million posts selling drugs. That is what they admitted to removing. To put that in perspective, that is 100 times more postings than the notorious dark website the Silk Road ever carried.

Study after study by ACCO members and others have shown widespread use of Google, Twitter, Facebook, Reddit, YouTube to market and sell Fentanyl, Oxycodone, and

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other highly addictive, often deadly substances to U.S. consumers in direct violation of U.S. law, Federal law. Every major internet platform has a drug problem. Why? Because there is no law that holds tech firms responsible, even when a child dies buying drugs on an internet platform.

Tech firms play an active role in facilitating and spreading harm. Their algorithms, originally designed, well intentioned, to connect friends, also help criminals and terror groups connect to a global audience. ISIS and other terror groups use social media, especially Twitter, to recruit, fundraise, and spread their propaganda.

The ACCO alliance, among others, includes an incredible team of Syrian archeologists recording the online trafficking of thousands of artifacts plundered from ancient sites and sold in many cases by ISIS supporters. This is a war crime.

We are also tracking groups on Instagram, Google, and Facebook where endangered species are sold, items ranging rhino horn and elephant ivory to live chimpanzees and cheetahs. In some cases, the size of these online markets is literally threatening species with extinction.

I could continue to sit here and horrify you all morning. Illegal dog fighting, live videos of children being sexually abused, weapons, explosives, human remains, counterfeit goods, it is all just a few clicks away.

Distinguished committee members, the tech industry routinely claims that modifying CDA 230 is a threat to freedom of speech. But CDA 230 is a law about liability, not freedom of speech. Please try and imagine another industry in this country that has ever enjoyed such an incredible subsidy from Congress, total immunity, no matter what harm their product brings to consumers.

Tech firms could have implemented internal controls to prevent illicit activity from

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occurring, but it was cheaper and easier to scale while looking the other way. They were given this incredible freedom, and they have no one to blame but themselves for squandering it.

We want to see reforms to the law to strip immunities for hosting terror and serious crime content, to regulate that firms must report crime and terror activity to law enforcement, and appropriations to law enforcement to contend with this data.

Distinguished committee members, if it is illegal in real life, it ought to be illegal to host it online. It is imperative we reform CDA 230 to make the internet a safer place for all.

Thank you very much.

[The prepared statement of Ms. Peters follows:]

\*\*\*\*\* INSERT 1-4 \*\*\*\*\*

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Mr. Doyle. The gentlelady yields back.

Ms. Oyama, you are recognized for 5 minutes.

#### **STATEMENT OF KATHERINE OYAMA**

Ms. Oyama. Chairman Doyle, Chairwoman Schakowsky, Ranking Members Latta and McMorris Rodgers, distinguished members of the committee, thank you for the opportunity to appear before you today. I appreciate your leadership on these important issues and welcome the opportunity to discuss Google's work in these areas.

My name is Katie Oyama, and I am the global head of IP policy at Google. In that capacity, I also advise the company on public policy frameworks for the management and moderation of online content of all kinds.

At Google, our mission is to organize and make the world's information universally accessible and useful. Our services and many others are positive forces for creativity, learning, and access to information.

This creativity and innovation continues to yield enormous economic benefits for the United States. However, like all means of communications that came before it, the internet has been used for both the best and worst of purposes. And this is why, in addition to respecting local law, we have robust policies, procedures, and community guidelines that govern what activity is permissible on our platforms, and we update them regularly to meet the changing needs of both our users and society.

In my testimony today, I will focus on three areas: the history of 230 and how it has helped the internet grow; how 230 contributes to our efforts to take down harmful



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content; and Google's policies across our products.

Section 230 of the Communications Decency Act has created a robust internet ecosystem where commerce, innovation, and free expression thrive, while also enabling providers to take aggressive steps to fight online abuse. Digital platforms help millions of consumers find legitimate content across the internet, facilitating almost \$29 trillion in online commerce each year.

Addressing illegal content is a shared responsibility, and our ability to take action on problematic content is underpinned by 230. The law not only clarifies when services can be held liable for third-party content, but also creates the legal certainty necessary for services to take swift action against harmful content of all types.

Section 230's good Samaritan provision was specifically introduced to incentivize self-monitoring and to facilitate content moderation. It also does nothing to alter platform liability for violations of Federal criminal laws, which are expressly exempted from the scope of the CDA.

Over the years, the importance of Section 230 has only grown and is critical in ensuring continued economic growth. A recent study found that over the next decade, 230 will contribute an additional 4.25 million jobs and \$440 billion in growth to the economy.

Furthermore, investors in the startup ecosystem have said that weakening online safe harbors would have a recession-like impact on investment. And internationally, 230 is a differentiator for the U.S. China, Russia, and others take a very different approach to innovation and to censoring speech online, sometimes including speech that is critical of political leaders.

Perhaps the best way to understand the importance of 230 is to imagine what

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might happen if it weren't in place. Without 230, search engines, video sharing platforms, political blogs, startups, review sites of all kinds would either not be able to moderate content at all, or they would overblock, either way harming consumers and businesses that rely on their services every day.

Without 230, platforms could be sued for decisions around removal of content from their platforms, such as the removal of hate speech, mature content, or videos relating to pyramid schemes.

And because of 230, we can and do enforce rigorous policies that ensure that our platforms are safe, useful, and vibrant for our users. For each product, we have a specific set of rules and guidelines that are suitable for the type of platform, how it is used, and the risk of harm associated with it. These approaches range from clear content policies and community guidelines with flagging mechanisms to report content that violates them to increasingly effective machine learning that can facilitate removal of harmful content at scale before a single human user has ever been able to access it.

For example, in the 3-month period from April to June 2019, YouTube removed over 9 million videos from our platform for violating our community guidelines, and 87 percent of this content was flagged by machines first rather than by humans. And of those detected by machines, 81 percent of that content was never viewed by a single user.

We now have over 10,000 people across Google working on content moderation. We have invested hundreds of millions of dollars for these efforts.

In my written testimony, I go into further detail about our policies and procedures for tackling harmful content on Search, Google Ads, and YouTube.

We are committed to being responsible actors who are part of the solution.

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Google will continue to invest in the people and the technology to meet this challenge.

We look forward to continued collaboration with the committee as it examines these issues.

Thank you for your time, and I look forward to taking your questions.

[The prepared statement of Ms. Oyama follows:]

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Mr. Doyle. Thank you.

Dr. Farid, you have 5 minutes.

#### **STATEMENT OF HANY FARID**

Mr. Farid. Chairman, chairwoman, ranking members, members of both subcommittees, thank you for the opportunity to speak with you today.

Technology, as you have already heard, and the internet have had a remarkable impact on our lives and society. Many educational, entertaining, and inspiring things have emerged from the past two decades in innovation.

But at the same time, many horrific things have emerged: a massive proliferation of child sexual abuse material; the recruitment and radicalization of domestic and international terrorists; the distribution of illegal and deadly drugs; the proliferation of mis- and disinformation campaigns designed to sow civil unrest, incite violence, and disrupt democratic elections; the proliferation of dangerous, hateful, and deadly conspiracy theories; the routine and daily harassment of women and underrepresented groups in the forms of threats of sexual violence and revenge and nonconsensual pornography; small and large-scale fraud; and spectacular failures to protect our personal and sensitive data.

How in 20 short years did we go from the promise of the internet to democratize access to knowledge and make the world more understanding and enlightened to this litany of daily horrors? A combination of naivete, ideology, willful ignorance, and a mentality of growth at all costs have led the titans of tech to fail to install proper

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safeguards on their services.

The problem that we face today, however, is not new. As early as 2003, it was well known that the internet was a boon for child predators. Despite early warnings, the technology sector dragged their feet through the early and mid-2000s and did not respond to the known problems at the time, nor did they put in place the proper safeguards to contend with what should have been the anticipated problems that we face today.

In defense of the technology sector, they are contending with an unprecedented amount of data. Some 500 hours of video are uploaded to YouTube every minute, some one billion daily uploads to Facebook, and some 500 million tweets per day.

On the other hand, these same companies have had over a decade to get their houses in order and have simply failed to do so. And at the same time, they have managed to profit handsomely by harnessing the scale and volume of the data that is uploaded to their services every day.

And these services don't seem to have trouble dealing with unwanted material when it serves their interests. They routinely and quite effectively remove copyright infringement, and they effectively remove legal adult pornography because otherwise, their services would be littered with pornography, scaring away advertisers.

During his 2018 congressional testimony, Mr. Zuckerberg repeatedly invoked artificial intelligence, AI, as the savior for content moderation in, we are told, 5 to 10 years. Putting aside that it is not clear what we should do in the intervening decade or so, this claim is almost certainly overly optimistic.

So, for example, earlier this year, Facebook's chief technology officer showcased Facebook's latest AI technology for discriminating images of broccoli from images of

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marijuana. Despite all of the latest advances in AI and pattern recognition, this system is only able to perform the task with an average accuracy of 91 percent. This means that approximately 1 in 10 times, the system is simply wrong.

At a scale of a billion uploads a day, this technology cannot possibly automatically moderate content. And this discrimination task is surely much easier than the task of identifying a broad class of child exploitation, extremism, and disinformation material.

The promise of AI is just that, a promise, and we cannot wait a decade or more with the hope that AI will improve by some nine orders of magnitude when it might be able to contend with automatic online content moderation.

To complicate things even more, earlier this year Mr. Zuckerberg announced that Facebook is implementing end-to-end encryption on its services, preventing anyone, the government, Facebook, from seeing the contents of any communications. Blindly implementing end-to-end encryption will make it even more difficult to contend with the litany of abuses that I enumerated at the opening of my remarks.

We can and we must do better when it comes to contending with some of the most violent, harmful, dangerous, and hateful content online. I simply reject the naysayers that argue that it is too difficult from a policy or technological perspective or those that say that reasonable and responsible content moderation will lead to the stifling of an open exchange of ideas.

Thank you, and I look forward to taking your questions.

[The prepared statement of Mr. Farid follows:]

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Mr. Doyle. Thank you, Dr. Farid.

Well, we have concluded our openings. We are going to move to member questions. Each member will have 5 minutes to ask questions of our witnesses, and I will start by recognizing myself for 5 minutes.

Well, I have to say, when I said at the beginning of my remarks this is a complex issue, it is a very complex issue, and I think we have all heard the problems. What we need to hear is solutions.

Let me just start by asking all of you just by a show of hands who thinks that online platforms could do a better job of moderating their content on their websites.

So that is unanimous, and I agree. And I think it is important to note that we all recognize that content moderation online is lacking in a number of ways and that we all need to address this issue better. And if not you, who are the platforms and the experts in this technology, and you put that on our shoulders, you may see a law that you don't like very much and that has a lot of unintended consequences for the internet.

So I would say to all of you, you need to do a better job. You need to have an industry getting together and discussing better ways to do this. The idea that you can buy drugs online and we can't stop that, to most Americans hearing that, they don't understand why that is possible, why it wouldn't be easy to identify people that are trying to sell illegal things online and take those sites down. Child abuse. It is very troubling.

On the other hand, I don't think anybody on this panel is talking about eliminating Section 230. So the question is, what is the solution between not eliminating 230, because of the effects that would have just on the whole internet, and making sure that we do a better job of policing this?

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Mr. Huffman, Reddit, a lot of people know of Reddit, but it is really a relatively small company when you place it against some of the giants. And you host many communities, and you rely on your volunteers to moderate discussions. I know that you have shut down a number of controversial sub-Reddits that have spread deepfakes, violent and disturbing content, misinformation, and dangerous conspiracy theories. But what would Reddit look like if you were legally liable for the content your users posted or for your company's decision to moderate user content and communities?

Mr. Huffman. Sure. Thank you for the question.

What Reddit look like would be -- we would be forced to go to one of two extremes. In one version, we would stop looking. We would go back to the pre-230 era, which means if we don't know, we are not liable. And that, I am sure, is not what you intend, and it is certainly not what we want. It would be not aligned with our mission of bringing community and belonging to everybody in the world.

The other extreme would be to remove any content or prohibit any content that could be remotely problematic. And since Reddit is a platform where 100 percent of our content is created by our users, it fundamentally undermines the way Reddit works. It is hard for me to give you an honest answer of what Reddit would look like because I am not sure Reddit, as we know it, could exist in a world where we had to remove all user-generated content.

Mr. Doyle. Yeah.

Dr. McSherry, you talk about the risk to free speech if Section 230 were repealed or substantially altered, but what other tools could Congress use to incentivize online platforms to moderate dangerous content and encourage a healthier online ecosystem? What would your recommendation be short of eliminating 230?



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Ms. McSherry. Well, I think a number of the problems that we have talked about today so far, which I think everyone agrees are very, very serious, and I want to underscore that, are actually often addressed by existing laws that target the conduct itself. So, for example, in the Armslist case, we had a situation where what Armslist -- the selling of the gun that was so controversial was actually perfectly legal under Wisconsin law.

Similarly, many of the problems that we have talked about today are already addressed by Federal criminal laws that already exist, and so they aren't -- Section 230 is not a barrier, because, of course, there is a carveout for Federal criminal laws.

So I would urge this committee to look carefully at the laws that actually target the actual behavior that we are concerned about and perhaps start there.

Mr. Doyle. Ms. Peters, you did a good job horrifying us with your testimony. What solution do you offer short of repealing 230?

Ms. Peters. I don't propose repealing 230. I think that we want to continue to encourage innovation in this country. It is our core economic -- a core driver of our economy. But I do believe that CDA 230 should be revised so that if something is illegal in real life, it is illegal to host it online. I don't think that that is an unfair burden for tech firms. Certainly some of the wealthiest firms in our country should be able to take that on.

I, myself, have a small business. We have to run checks to make sure when we do business with foreigners that we are not doing business with somebody that is on a terror blacklist. Is it so difficult for companies like Google and Reddit to make sure that they are not hosting an illegal pharmacy?

Mr. Doyle. I see my time is getting way expired, but I thank you, and I think we

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get the gist of your answer.

The chairman now yields to my ranking member for 5 minutes.

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

And again, thanks to our witnesses.

Ms. Oyama, if I could start with you. A recent New York Times article outlined the horrendous nature of child sex abuse online and how it has exponentially grown over the last decade. My understanding is tech companies are only legally required to report images of child abuse only when they discover it. They are not required to actively look for it.

While I understand you make voluntary efforts to look for this type content, how can we encourage platforms to better enforce their terms of service or proactively use their sword provided by Subsection (c)(2) of Section 230 to take good faith efforts to create accountability within the platforms?

Ms. Oyama. Thank you for the question and particularly for focusing on the importance of Section (c)(2) to incentivize platforms to moderate content.

I can say that for Google, we do think that transparency is critically important, and so we publish our guidelines, we publish our policies, we publish on YouTube a quarterly transparency report where we show across the different categories of content what is the volume of content that we have been removing.

And we also allow for users to appeal. So if their content is stricken and they think that was a mistake, they also have the ability to appeal and track what is happening with the appeal.

So we do understand that this piece of transparency is really critical to user trust and for discussions with policymakers on these critically important topics.

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Mr. Latta. Thank you.

Ms. Citron, a number of defendants have claimed Section 230 immunity in the courts, some of which are tech platforms that may not use any user-generated content at all. Was Section 230 intended to capture those platforms?

Ms. Citron. So platforms are solely responsible for the content. The question is, there is no user-generated content and they are creating the content, that is the question, would that be covered by the legal shield of 230? I am asking, is that the question?

Mr. Latta. Right.

Ms. Citron. No. They would be responsible for the content that they have created and developed. So Section 230, that legal shield, would not apply.

Mr. Latta. Thank you.

Mr. Farid, are there tools available, like PhotoDNA or Copyright ID, to flag the sale of illegal drugs online? If the idea is that platforms should be incentivized to actively scan their platforms and take down blatantly illegal content, shouldn't key words or other indicators associated with opioids be searchable through an automated process?

Mr. Farid. The short answer is yes.

There are two ways of doing content moderation. Once material has been identified, typically by a human moderator, whether that is child abuse material, illegal drugs, terrorism-related material, whatever it is, that material, copyright infringement, can be fingerprinted, digitally fingerprinted, and then stopped from future upload and distribution.

That technology has been well understood and has been deployed for over a decade. I think it has been deployed anemically across the platforms and not nearly

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aggressively enough. That is one form of content moderation that works today.

The second form of content moderation is what I call the day zero, finding the Christchurch video on upload. That is incredibly difficult and still requires law enforcement, journalists, or the platforms themselves to find. But once that content has been identified, it can be removed from future uploads.

And I will point out, by the way, that today you can go onto Google and you can type "buy Fentanyl online" and it will show you in the first page illegal pharmacies where you can click and purchase Fentanyl.

That is not a difficult find. We are not talking about the dark web. We are not talking about things buried on page 20. It is on the first page. And in my opinion, there is no excuse for that.

Mr. Latta. Let me follow up, because you said it is anemic, what some of the platforms might be doing out there.

You know, last year in this room, we passed over 60 pieces of legislation dealing with the drug crisis that we have in this country, Fentanyl being one of them. You just mentioned that you can just type in "Fentanyl" and you can find it. Okay. Because again, what we are trying to do is make sure we don't have the 72,000 deaths that we had this country over a year ago and with over 43,000 being associated with Fentanyl.

So how do we go into the platforms and say we have got to enforce this because we don't want the stuff flowing in from China? And how do we do that?

Mr. Farid. Well, this is what the conversation is. So I am with everybody else on the panel, we don't repeal 230, but we make it a responsibility, not a right. If your platform can be weaponized in the way that we have seen across the boards from the litany of things that I had in my opening remarks, surely something is not working.

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If I can find on Google in page 1, and not just me, my colleagues on the table, also investigative journalists, we know this content is there. It is not hiding. It is not difficult. And we have to ask the question that if a reasonable person can find this content, surely Google with its resources can find it as well, and now what is the responsibility.

And I think you said earlier, too, is that you just enforce your terms of service. So if we don't want to talk about 230, let's talk about terms of service. The terms of service of most of the major platforms are actually pretty good. It is just that they don't really do very much to enforce them in a clear, consistent, and transparent way.

Mr. Latta. Thank you very much.

Mr. Chairman, my time has expired, and I yield back.

Mr. Doyle. The gentleman yields back.

The chair now recognizes Ms. Schakowsky, chair for the Subcommittee on Consumer Protection, for 5 minutes.

Ms. Schakowsky. Thank you, Mr. Chairman.

Ms. Oyama, you said in one of the sentences that you presented to us that without 230. I want to see if there are any hands that would go up that we should abandon 230. Has anybody said that? Okay.

So this is not the issue. This is a sensible conversation about how to make it better.

Mr. Huffman, you said -- and I want to thank you for -- we had, I think, a really productive meeting yesterday -- explaining to me what your organization does and how it is unique. But you also said in your testimony that Section 230 is a unique American law. And so -- but, yeah. When we talked yesterday, you thought it was a good idea to

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put it into a trade agreement dealing with Mexico and Canada.

If it is a unique American law, let me just say that I think trying to fit it into the regulatory structure of other countries at this time is inappropriate.

And I would like to just quote, I don't know if he is here, from a letter that both Chairman Pallone and Ranking Member Walden wrote some time ago to Mr. Lighthizer that said: We find it inappropriate for the United States to export language mirroring Section 230 while such serious policy discussions are ongoing. And that is what is happening right now. We are having a serious policy discussion.

But I think what the chairman was trying to do and what I want to do is try to figure out what do we really want to do to amend or change in some way. And so again, briefly, if the three of you that have talked about the need for changes, let me start with Ms. Citron, on what you want to see in 230.

Ms. Citron. So I would like to bring the statute back to its original purpose, was to apply to good Samaritans who are engaged in responsible and reasonable content moderation practices. And I have the language to change the statute that would condition that we are not going to treat a provider or user of an interactive service that engages in reasonable content moderation practices as a publisher or a speaker. So it would keep the immunity, but it would --

Ms. Schakowsky. Let me just suggest that if there is language, I think we would like to see suggestions.

Ms. Peters, if you could, and I think you pretty much scared us as to what is happening and then how we can make 230 responsive to those concerns.

Ms. Peters. Thank you for your question, Chair Schakowsky.

We would love to share some proposed language with you about how to reform

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230 to protect better against organized crime and terror activity on platforms.

One of the things I am concerned about that a lot of tech firms are involved in is when they detect illicit activity or it gets flagged to them by users, their response is to delete it and forget about it. What I am concerned about is two things.

Number one, that essentially is destroying critical evidence of a crime, it is actually helping criminals to cover their tracks, as opposed to a situation like what we have for the financial industry and even aspects of the transport industry. If they know that illicit activity is going on, they have to share it with law enforcement and they have to do it in a certain timeframe.

I certainly want to see the content removed, but I don't want to see it simply deleted, and I think that is an important distinction. I would like to see a world where the big tech firms work collaboratively with civil society and with law enforcement to root out some of these evil entities.

Ms. Schakowsky. I am going to cut you off just because my time is running out and I do want to get to Dr. Farid with the same thing. So we would welcome concrete suggestions.

Mr. Farid. Thank you.

I agree with my colleague, Professor Citron. I think 230 should be a privilege, not a right. You have to show that you are doing reasonable content moderation.

I think we should be worried about the small startups. If we start regulating now, the ecosystem will become even more monopolistic. So we have to think about how do we make carveouts for small platforms who can now compete where these companies did not have to deal with that regulatory pressure.

And the last thing I will say is the rules have to be clear, consistent, and

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transparent.

Ms. Schakowsky. Thank you. I yield back.

Mr. Doyle. The chair now recognizes Mrs. McMorris Rodgers for 5 minutes.

Mrs. Rodgers. Thank you, Mr. Chairman.

Section 230 was intended to provide online platforms with a shield from liability as well as a sword to make good faith efforts to filter, block, or otherwise address certain offensive content online.

Professor Citron, do you believe companies are using the sword enough, and if not, why do you think that is?

Ms. Citron. We are seeing the dominant platforms. I have been working with Facebook and Twitter for about 8 years. And so I would say the dominant platforms and folks on this panel at this point are engaging in what I would describe at a broad level as fairly reasonable content moderation practices.

I think they could do far better on transparency about what they mean by when they forbid hate speech. What do they mean by that? What is the harm that they want to avoid? Examples. And they could be more transparent about the processes that they use when they make decisions, right, to have more accountability.

But what really worries me are the sort of renegade sites as well, the 8chans, who foment incitement with no moderation, dating apps that have no ability to ban impersonators and have IP addresses. And frankly, sometimes, it is the biggest of providers, not the small ones, who know they have illegality happening on their platforms and do nothing about it.

Mrs. Rodgers. And why are they doing that?

Ms. Citron. Because of Section 230 immunity. So the dating app Grindr comes



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to mind, hosting impersonations of someone's ex. And the person was using Grindr to send thousands of men to this man's home. Grindr heard 50 times from the individual who was being targeted, did nothing about it.

Finally, when they responded after getting a lawsuit, their response was our technology doesn't allow us to track IP addresses.

But Grindr is fairly dominant in this space. But when the person went to SCRUFF, it is a smaller dating site, the impersonator was again posing as the individual, sending men to his home, and SCRUFF responded right away. They said we can ban the IP address and took care of it.

So I think the notion that the smaller versus large, by my lights, is there is good practices, responsible practices, and irresponsible, harmful practices.

Mrs. Rogers. Okay. Thank you for that.

Mr. Huffman and Ms. Oyama, your company policies specifically prohibit illegal content or activities on your platform. Regarding your terms of service, how do you monitor content on your platform to ensure that it does not violate your policies?

Maybe I will start with Mr. Huffman.

Mr. Huffman. Sure. So in my opening statement I described the three layers of moderation that we have on Reddit, our company's moderation and our team. This is the group that both writes the policies and enforces the policies.

Primarily the way they work is enforcing these policies at scale, so looking for aberrational behavior, looking for known problematic sites or words. We participate in the cross-industry hash sharing, which allows us to find images, for example, exploitive of children that are shared industry-wide or fingerprints thereof.

Next, though, are our community moderators. These are the people

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who -- these are users, and then following the users themselves, those two groups participate together in removing content that is inappropriate for their community and in violation of our policies.

We have policies against hosting. Our content policy is not very long, but one of the points is no illegal content. So no regulated goods, no drugs, no guns, anything of that sort, controlled --

Mrs. Rogers. So you are seeking it out, and if you find it, then you get it off the platform.

Mr. Huffman. That is right, because 230 doesn't provide us criminal liability protection. And so we are not in the business of committing crimes or helping people commit crimes. That would be problematic for our business. So we do our best to make sure it is not on the platform.

Mrs. Rogers. Thank you.

Ms. Oyama, would you address that and then just what you are doing if you find that illegal content?

Ms. Oyama. Thank you. Yes.

Across YouTube, we have very clear content policies. We publish those online. We have YouTube videos that give more examples and some specific ways so people understand.

We are able to detect, of the 9 million videos that we removed from YouTube in the last quarter, 87 percent of those were detected first by machine. So automation is one very important way.

And then the second way is human reviewers. So we have community flagging where any user that sees problematic content can flag it and follow what happens with

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that complaint. We also have human reviewers that look, and then we are very transparent in explaining that.

When it comes to criminal activity on the internet, you know of course, CDA 230 has a complete carveout. So in the case of Grindr we have policies against harassment. But in the case of Grindr where there was real criminal activity, my understanding is there is a defendant in that case, and there is a criminal case for harassment and stalking that are proceeding against him.

And so in certain cases, opioids again, controlled substance, under criminal law there is a section that says, I think, controlled substances on the internet, sale of controlled substances on the internet, that is a provision.

In cases like that where there is actually a law enforcement rule, we would, you know, if there is correct legal process, then we would work with law enforcement to also provide information under due process or a subpoena.

Mrs. Rogers. Thank you.

Okay. My time has expired. I yield back.

Mr. Doyle. The gentlelady yields. Thank you.

Ms. DeGette, you are recognized for 5 minutes.

Ms. DeGette. Thank you so much, Mr. Chairman.

I really want to thank this panel. I am a former constitutional lawyer, so I am always interested in the intersection between criminality and free speech.

And in particular, Professor Citron, I was reading your written testimony which you confirmed with Ms. Schakowsky about how Section 230 should be revised to both continue to provide First Amendment protections but also return the statute to its original purpose, which is to let companies act more responsibly, not less.

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And in that vein, I want to talk during my line of questioning about online harassment, because this is a real -- sexual harassment -- this is a real issue that has just only increased. The Anti-Defamation League reported that 24 percent of women and 63 percent of LGBTQ individuals have experienced online harassment because of their gender or sexual orientation, and this is compared to only 14 percent of men, and 37 percent of all Americans of any background have experienced severe online harassment, which includes sexual harassment, stalking, physical threats, and sustained harassment.

So I want to ask you, Professor Citron, and also I want to ask you, Ms. Peters, very briefly to talk to me about how Section 230 facilitates illegal activities, and do you think it undermines the value of those laws, and if so, how.

Professor Citron.

Ms. Citron. So let me say that in cases involving harassment, of course, there is a perpetrator and then the platform that enables it. And most of the time the perpetrators are not pursued by law enforcement. So in my book "Hate Crimes in Cyberspace" I explore the fact that law enforcement really they don't get the, they don't understand the abuse, they don't know how to investigate it.

In the case of Grindr, police, there were, like, 10 protective orders that were violated, and law enforcement in New York has done nothing about it.

So it is not true that we can always find the perpetrator nor especially in the cases of stalking, harassment, and threats. We see a severe underenforcement of law, particularly when it comes to gendered harms.

Ms. DeGette. And that is really where it falls to the sites, then, to try to protect.

Ms. Peters, do you want to comment on that?

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Ms. Peters. I just wanted to say that in this issue there needs to be something akin to like a cyber restraining order, so that if somebody is stalking somebody on Grindr or OkCupid or Google that site can be ordered to block that person from communicating with the other.

Ms. DeGette. Okay. And even under Section 230 immunity, can platforms ignore requests to take down this type of material?

Ms. Peters. They have.

Ms. DeGette. Professor Citron, you are nodding your head.

Ms. Citron. They do and they can, especially if those protective orders are coming from State criminal law.

Ms. DeGette. Okay.

I wanted to ask you, Dr. McSherry, sexual harassment continues to be a significant problem on Twitter and other social platforms, and I know Section 230 is a critical tool that facilitates content moderation. But as we have heard in the testimony, a lot of the platforms aren't being aggressive enough to enforce the terms and conditions. So what I want to ask you is, what can we do to encourage platforms to be more aggressive in protecting consumers and addressing issues like harassment?

Ms. McSherry. I imagine this hearing will encourage many of them to do just that.

Ms. DeGette. But, know, we keep having hearings --

Ms. McSherry. No, no, no. I understand. Absolutely. I understand that.

So I actually think that many, many of the platforms are pretty aggressive already in their content moderation policies. I agree with what many have said here today which is that it would be nice if they would start by clearly enforcing their actual terms of

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service which we share a concern about because often they are enforced very inconsistently, and that is very challenging for users.

A concern that I have is if we institute what I think is one proposal, which is that whenever you get a notice you have some duty to investigate, that could actually backfire for marginalized communities, because one of the things that also happens is if you want to silence someone online, one thing you might do is flood a service provider with complaints about them. And then they end up being the ones who are silenced rather than the other way around.

Ms. DeGette. Dr. Farid, what is your view of that?

Mr. Farid. Pardon me?

Ms. DeGette. What is your view of what Dr. McSherry said?

Mr. Farid. There are two issues at hand here. When you do moderation, you risk overmoderating or undermoderating.

Ms. Degette. Right.

Mr. Farid. What I would argue is we are way, way undermoderating. When I look at where we fall down and where we make mistakes and take down content we should, and I weigh that against 45 million pieces of content just last year to NCMEC and child abuse material and terrorism and drugs, the weights are imbalanced. We have to sort of rebalance, and we have to try to get it right.

We are going to make mistakes, but we are making way more mistakes on allowing content right now than we are on not allowing.

Ms. DeGette. Thank you.

Thank you very much, Mr. Chairman. I yield back.

Mr. Doyle. The gentlelady yields back.

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The chair now recognizes Mr. Johnson for 5 minutes.

Mr. Johnson. Thank you, Mr. Chairman, to you and to Chairwoman Schakowsky for holding this very important hearing.

You know, I have been in information technology for most of my adult life and social responsibility has been an issue that I have talked about a lot. In the absence of heavy-handed government and regulating, I think the absence of regulations is what has allowed the internet and the social media platforms to grow like they have. But I hate to sound cliché-ish, but that old line from the "Jurassic Park" movie: Sometimes we are more focused on what we can do and we don't think about what we should do. And so I think that is where we find ourselves with some of this.

We have heard from some of our witnesses accessibility of a global audience through internet platforms is being used for illegal and illicit purposes by terrorist organizations and even for the sale of opioids, which continues to severely impact communities across our Nation, particularly in rural areas like I live in eastern and southeastern Ohio.

However, internet platforms also provide an essential tool for legitimate communication and the free, safe, and open exchange of ideas, which has become a vital component of modern society and today's global economy.

I appreciate hearing from all of our witnesses as our subcommittees examine whether Section 230 of the Communications Decency Act is empowering internet platforms to effectively self-regulate under this light touch framework.

So, Mr. Huffman, in your testimony you discuss the ability of not only Reddit employees but its users to self-regulate and remove content that goes against Reddit's stated rules and community standards. Do you think other social media platforms, for

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example, Facebook or YouTube, have been able to successfully implement similar self-regulating functions and guidelines? If not, what makes Reddit unique in their ability to self-regulate?

Mr. Huffman. Sure. Thank you, Congressman.

I am only familiar with the other platforms to the extent that you probably are, which is to say I am not an expert. I do know they are not sitting on their hands. I know they are making progress.

But Reddit's model is unique in the industry in that we believe that the only thing that scales with users is users. And so when we are talking about user-generated content, sharing some of this burden with those people, in the same way that in our society here in the United States there are many unwritten rules about what is acceptable or not to say, the same thing exists on our platforms. And by allowing and empowering our users and communities to enforce those unwritten rules, it creates an overall more healthy ecosystem.

Mr. Johnson. Okay.

Ms. Oyama, in your testimony you discuss the responsibility of determining which content is allowed on your platforms, including balancing respect for diverse viewpoints and giving a platform for marginalized voices. Would a system like Reddit's up votes and down votes impact the visibility of diverse viewpoints on platforms like YouTube? And do dislikes on YouTube impact a video's visibility?

Ms. Oyama. Thank you for the question.

As you have seen, users can give thumbs up or thumbs down to a video. It is one of many, many signals, so it certainly wouldn't be determinative in terms of a recommendation of a video on YouTube. That would mostly be for relevance.



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And I really appreciate your point about responsible content moderation. I did want to make the point that on the piece about harassment and bullying, we did remove 35,000 videos from YouTube just in the last quarter, and we can do this because of CDA 230.

Whenever someone's content is removed, they may also be upset, so there could be cases against a service provider for defamation, for breach of contract. And service providers, large and small, are able to have these policies and implement procedures to identify bad content and take it down because of the provisions of CDA 230.

Mr. Johnson. Okay. Well, I have got some other questions that I am going to submit for the record, Mr. Chairman, but let me just summarize with this because I want to stay within my time, and you are going to require me to stay within my time.

So in the absence of regulations, as I mentioned in my opening remarks, that takes social responsibility to a much higher bar. And I would suggest to the entire industry of the internet, social media platforms, we better get serious about this self-regulating or you are going to force Congress to do something that you might not want to have done.

With that, I yield back.

Mr. Doyle. The gentleman yields back.

The chair recognizes Ms. Matsui for 5 minutes.

Ms. Matsui. Thank you very much, Mr. Chairman.

I want to once again thank the witnesses for being here today.

Ms. Oyama and Mr. Huffman, last week the Senate Intel Committee released a bipartisan report on Russia's use of social media. The report found that Russia used social media platforms to sow social discord and influence the outcome of the 2016 election.

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What role can Section 230 play in ensuring that platforms are not used again to disrupt our political process?

Ms. Oyama, Mr. Huffman, comments?

Ms. Oyama. Thank you. Again, CDA 230 is critically important for allowing services like us to protect citizens and users against foreign interference in elections. It is a critical issue, especially with the election cycle coming up.

We found on Google across our systems in the 2016 election, fortunately, due to the measures we have been able to take and add removals, there were only two accounts that had infiltrated our systems. They had a spend of less than \$5,000 back in 2016.

We continue to be extremely vigilant. So we do publish a political ads transparency report. We require that ads are disclosed, who paid for them. They show up in a library. They need to be --

Ms. Matsui. So you feel that you are effective?

Ms. Oyama. We can always do more, but on this issue, we are extremely focused on it and working with campaigns to protect --

Ms. Matsui. Mr. Huffman.

Mr. Huffman. Yes, Congresswoman. So in 2016, we found that the -- we saw the same fake news and misinformation submitted to our platform as we saw on the others. The difference is on Reddit it was largely rejected by the community, by the users, long before it even came to our attention.

If there is one thing Reddit is good at or our community is good at it is being skeptical and rejecting also or questioning everything, for better or for worse.

Between then and now, we have become dramatically better at finding groups of accounts that are working in a coordinated or inauthentic matter, and we collaborate

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with law enforcement. So based on everything we have learned in the past and can see going forward, I think we are in a pretty good position coming into the 2020 election.

Ms. Matsui. Okay.

Dr. Farid, in your written testimony, you mention the proliferation of mis- and disinformation campaigns designed to disrupt democratic elections. This sort of election interference really troubles me and a lot of other people.

You mentioned there is more that platforms could be doing about moderating content online. What more should they be doing about this issue now, this time?

Mr. Farid. Yeah. So let me just give you one example. A few months ago, we saw a fake video of Speaker Pelosi make the rounds, okay, and the response was really interesting. So Facebook said, we know it is fake, but we are leaving it up, we are not in the business of telling the truth.

So that was not a technological problem, that was a policy problem. That was not satire. It was not comedy. It was meant to discredit the Speaker.

And so I think fundamentally, we have to relook at the rules. And in fact, if you look at Facebook's rules, it says you cannot post things that are misleading or fraudulent. That was a clear case where the technology worked, the policy is unambiguous, and they simply failed to implement the policy.

Ms. Matsui. They failed. Okay.

Mr. Farid. To YouTube's credit, they actually took it down. And to Twitter's discredit, they didn't even respond to the issue.

So in some cases, there is a technological issue, but more often than not we are simply not enforcing the rules that are already in place.

Ms. Matsui. So that is a decision they made --

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Mr. Farid. Right.

Ms. Matsui. -- not to enforce the rules.

Okay.

Ms. Oyama and Mr. Huffman, what do you think about what Mr. Farid just said?

Mr. Huffman. Sure. I will respond.

There are two aspects to this. First, specifically towards Reddit, we have a policy against impersonation.

Ms. Matsui. Okay.

Mr. Huffman. So a video like that can both be used to manipulate people or serve as misinformation. It also raises question about the veracity of the things that we see and hear and prompts important discussions.

So the context around whether a video like that stays up or down on Reddit is really important, and those are difficult decisions.

I will observe that we are entering into a new era where we can manipulate videos. We have historically been able to manipulate text and images with Photoshop, and now videos.

So I do think not only do the platforms have a responsibility, but we as a society have to understand that the source of materials -- for example, which publication -- is critically important because there will come a time, no matter what any of my tech peers say, where we will not be able to detect that sort of fakery.

Ms. Matsui. Exactly.

And, Ms. Oyama, I know I only have 15 seconds.

Ms. Oyama. Thank you.

I mean, on the specific piece of content that you mentioned, YouTube, we do have

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a policy against deceptive practices and removed it.

But there is ongoing work that needs to be done to be able to better identify deepfakes. I mean, of course, even comedians sometimes use them, but in political context or other places, it could severely undermine democracy. And we have opened up data sets, we are working with researchers to build technology that can better detect when media is manipulated in order for those policies to kick in.

Ms. Matsui. Well, I appreciate the comment. I have a lot more to say, but you know how this is.

But anyway, I yield back the balance of my time. Thank you.

Mr. Doyle. The gentlelady yields back.

The chair recognizes Mr. Kinzinger for 5 minutes.

Mr. Kinzinger. Thank you, Mr. Chairman.

And thank you all for being here today. We very much appreciate it.

It is interesting, on the last line of questions, you know, one of the best things about democracy is our ability to have free speech and share opinions, but this can also be something that is a real threat. So I thank the chairman for yielding.

And I think it is safe to say that not every Member of Congress has a plan for what to do about Section 230 of the Communications Decency Act, but I think we all agree that the hearing is warranted. We need to have a discussion about the origins and intent of that section and whether the companies that enjoy these liability protections are operated in the manner intended.

And I will state up front that I generally appreciate the efforts certain platforms have made over the years to remove and block unlawful content. But I would also say that it is clearly not enough and that the status quo is unacceptable.

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It has been frustrating for me in recent years that my image and variations of my name have been used by criminals to defraud people on social media, and this goes back 10 years, and literally, I think, could approach in the fifties to hundreds given on the ones that we just know about. These scams are increasingly pervasive, and I not only brought it up in the hearing with Mark Zuckerberg last year, I also wrote him again this summer to continue to press him to act more boldly to protect his users.

So I have a question. Sources indicate that in 2018, people reported hundreds of millions of dollars lost to online scammers, including \$143 million through romance scams. Given what so many people have gone through, it has become more and more important for platforms to verify user authenticity.

So both to Mr. Huffman and Ms. Oyama, what do your platforms do to verify the authenticity of user accounts?

Mr. Huffman. Sure. Thank you for the question.

So there are again two parts to my answer. The first is on the scams themselves. My understanding is you are probably referring to scams that target veterans in particular.

We have a number of veterans communities on Reddit around support and shared experiences. They all, like all of our communities, create their own rules, and these communities have actually all created rules that prohibit fundraising generally, because the community and the members of those communities know that they can be targeted by this sort of scam in particular.

So that is the sort of nuance that we think is really important and highlights the power of our community model, because I, as a nonveteran, might not have had that same sort of intuition.

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Now, in terms of what we know about our users, Reddit is not -- we are different from our peers in that we don't require people to share their real world identity with us. We do know where they register from, what IPs they use, maybe their email address, but we don't force them to reveal their full name or their gender. And this is important, because on Reddit there are communities that discuss sensitive topics, in those very same veteran communities or, for example, drug addiction communities or communities for parents who are struggling being new parents. These are not things that somebody would go onto a platform like Facebook, for example, and say, "Hey, I don't like my kids."

Mr. Kinzinger. Yeah, I understand. I don't mean to cut you off, but I want to go to Ms. Oyama.

Ms. Oyama. Sure. And I am very sorry to hear that that happened to you, Congressman.

On YouTube we have a policy against impersonation. So if you were to ever see a channel that was impersonating you or a user saw that, there is a form where they can go in and submit. I think they upload their government ID, but that would result in the channel being struck.

On Search, spams can show up across the web. Search is an index of the web. We are trying to give relevant information to our users every single day on Search. We suppress 19 billion links that are spam, that could be scam, to defend the users. And then on Ads, we have something called the Risk Engine that can actually kick out bad or fraudulent accounts before they enter the system.

Mr. Kinzinger. Thank you.

And, you know, look, I am not upset about the sites that are, like, Kinzinger is the worst Congressman ever, right, that is understandable, I guess, for some people. But

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when you have, again, in my case, somebody that flew -- as an example, and there are multiple cases -- flew from India using her entire life savings because she thought we were dating for a year, not to mention all the money that she gave to this perpetrator and all these other stories.

I think one of the biggest and most important things is people need to be aware of that. If you have somebody over a period of a year dating you and never authenticating that, it is probably not real.

Ms. Peters, what are the risks associated with people not being able to trust other users' identities online?

Ms. Peters. I think there are multiple risks of that, but I want to come back to the key issue for us, which is if it is illicit the sites should be required to hand over data to law enforcement, to work proactively with law enforcement.

We have heard a lot today from the gentleman from Reddit about their efforts to better moderate. Some of our members were able to go online just the other day, type in a search for "buy Fentanyl" online, and came up with many, many results. The same for "buy Adderall" online, "buy Adderall for cheap without prescription."

Those are fairly simply search terms. I am not talking about a super high bar. To get rid of that on your platform doesn't seem too hard, or to have that automatically direct to a site that would advise you to get counseling for drug abuse.

We are not trying to be the thought police. We are trying to protect people from organized crime and terror activity.

Mr. Kinzinger. Thank you. And I will yield back, but I have a bunch more questions I will submit. Thank you.

Mr. Doyle. The gentleman yields back.



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And for the record, I want to say I don't think the gentleman is the worst Member of Congress. I don't even think you are at the very bottom, Adam. You are not a bad guy.

The chair recognizes Ms. Castor for 5 minutes.

Ms. Castor. Well, thank you, Chairman Doyle, for organizing this hearing.

And thanks to all of our witnesses for being here today.

I would like to talk about the issue of 230 in the context of this horrendous tragedy in Wisconsin a few years ago and Armslist.com, where a man walked into a salon where his wife was working and shot her dead in front of their daughter and killed two others in that salon and then killed himself. And this is the type of horrific tragedy that is all too common in America today.

But, Dr. McSherry, you mentioned -- I think you misspoke a little bit because you said that was all legal, but it wasn't, because 2 days before the shooting there was a temporary restraining order issued against that man. He went online shopping on Armslist.com 2 days after that TRO was issued, and the next day he commenced his murder spree.

And what happened is Armslist knows that they have domestic abusers shopping, they have got felons, they have got terrorists shopping for firearms, and yet they are allowed to proceed with this.

Earlier this year, the Wisconsin Supreme Court ruled that Armslist is immune even though they know that they are perpetuating illegal content in these kind of tragedies. They said, the Wisconsin Supreme Court ruled that Armslist is immune because of Section 230. They basically said it did not matter that Armslist actually knew or even intended that its website would facilitate illegal firearms sales to dangerous persons, Section 230

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still granted immunity.

And then, Ms. Peters, you have highlighted that this is not an isolated incident. We are talking about child sexual abuse content, illegal drug sales. I mean, it has just -- it has gone way too far.

So I appreciate that you all have proposed some solutions for this.

Dr. Citron, you have highlighted a safe harbor, that if companies use their best efforts to moderate content they would have some protection. But how would this work in reality? Would this be, then, it is left up to the courts in those type of liability lawsuits, which kind of speaks to the need for very clear standards coming out of the Congress, I think?

Ms. Citron. So yes, it would. And thank you so much for your question. How would we do this? It would be in the courts. So it would be an initial motion to dismiss. The company would then -- whoever is being sued, the question would be: Are you being reasonable in your content moderation practices writ large, not with regard to any one piece of content or activity? And it is true that it would then, the enforcing mechanism, the 12(b)(6) motion in Federal court, have companies then explain what constitutes reasonableness.

Now, I think we can come up right now, with all of us, we have come up with some basic sort of threshold what we think is reasonable content moderation practices, what we might describe as technological due process. Transparency, accountability, clarity of what it is having a process, having clarity about what it is you prohibit.

But it is going to have to be case by case, context by context, because what is a reasonable response to a deepfake, and I have done a considerable amount of work on deepfakes, is going to be different from the kind of advice I would give to Facebook,

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Twitter, and others about what constitutes a threat and how one figures that out. How we can use -- and I am thinking about Dr. Farid's testimony about what we do about -- there are certain issues --

Ms. Castor. And then let me -- and it would be in the public interest, I believe, that if it is explicit illegal content, that they don't -- it wouldn't wind up as an issue of fact in a lawsuit.

What do you think, Dr. Farid? If it is illegal content online, there really shouldn't be a debatable question, right?

Mr. Farid. I am not a lawyer, to be clear, I am a mathematician by training, so I don't think you really want to be asking me that question, but I completely agree with you. In some cases we have seen over the years, and we saw this when we were deploying PhotoDNA, is the technology companies want to get you muddled up in the gray area.

So we had conversations when we were trying to remove child abuse material saying: What happens when it is an 18-year-old? You know, what happens when it is not sexually explicit?

And my answer is, yes, those are complicated questions, but there is really clearcut bad behavior. We are doing awful things to kids as young as 2 months old. There is no issue.

Ms. Castor. I am going to interrupt you, because my time is short, and just going to highlight to the witnesses. There is also an issue with the number of moderators who are being hired to go through this content. A publication called The Verge had a horrendous story of Facebook moderators, and it caught my attention because one of the places is in Tampa, Florida, my district.

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I am going to submit follow-up questions about moderators and some standards for that practice as follow-up, and I encourage you to answer and send it back. Thank you.

Mr. McNerney. [Presiding.] The gentlelady yields.

Now the chair recognizes the gentleman from Illinois, Mr. Shimkus, for 5 minutes.

Mr. Shimkus. Thank you, Mr. Chairman. It is great to be you. I am sorry I missed a lot of this because I am upstairs. But in my 23 years being a Member, I have never had a chance to really address the same question to two different panels on the same day. So it was kind of an interesting convergence. Upstairs we are talking about e-vaping and underage use and what is in the product.

So I was curious, when we were in the opening statements here, someone, and I apologize, I am not sure, mentioned two cases. One was dismissed because they really did nothing, and one, the one who tried to be the good actor, got slammed. I don't know about slammed. But I see a couple heads being -- Ms. Citron, can you address that first? You are shaking it the most.

Ms. Citron. Yeah, enthusiastically, because those the two cases that effectively give rise to Section 230. So what animates Chris Cox to go to Ron Wyden say, you know, we have got to do something about this is two, a pair of decisions in which one basically says if you do nothing you are not going to be punished for it, but if you try and you moderate, actually that heightens your responsibility.

Mr. Shimkus. So no good deed goes unpunished.

Ms. Citron. Exactly. Right. So that is why we are in heated agreement about those two cases. That is why we are here today in many respects.

Mr. Shimkus. So if I tie into this what is going on upstairs, and someone uses a

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platform to encourage underage vaping with unknown nicotine content, and the site then decides to clean it up, because of the way the law is written right now this good deed, which we most would agree that it probably is a good deed, would go punished?

Ms. Citron. No, no. Now we have Section 230. That is why we have Section 230. They are encouraged, just so long as they are doing it in good faith, under Section 230 (c)(2), they can remove it, and they are good Samaritans.

Mr. Shimkus. Right. Okay. So that is the benefit of it. Is there fear? Okay. So in this debate that we heard earlier in opening comments from some of my colleagues in the USMCA debate, that part of that would remove the protections of 230, and then we would fall back to a regime by which the good deed person could get punished. Is that correct? Everybody is kind of shaking their head mostly?

Ms. Peters, you are not. Go ahead.

Ms. Peters. We need to keep the 230 language out of the trade agreements. It is currently an issue of great debate here in the United States. It is not fair to put that in a trade agreement. It will make it impossible for -- or make it harder for --

Mr. Shimkus. Well, don't get me wrong, I want USMCA passed as soon as possible without any encumbered work that doesn't happen, and I am not a proponent of trying to delay this process, but I am just trying to work through this debate. I mean, the concern upstairs to those of us, we believe in legal products that have been, me, approved by the FDA, and we are concerned about a black market operation that would then use platforms illicitly to sell to underage kids. That would be how I would tie these two hearings together, which, again, I still think is pretty interesting.

When we had the Facebook hearing a couple years ago, I referred to a book called "The Future Computed," which talks about the ability of industry to set those standards.

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I do think that industry -- we do this across the board in a lot of this, whether it is engineering of heating and air cooling equipment or that. We do have industry that comes together for the good of the whole, for the good actors, and say here are our standards.

And the fear is that if this sector doesn't do that, then the heavy hand of government will do it, which I think would really cause a little more problems.

Dr. Farid, you are shaking your head.

Mr. Farid. We have been saying to the industry you have to do better because if you don't somebody is going to do it for you. So you do it on your terms or somebody else's terms.

Mr. Shimkus. That would be us.

Mr. Farid. So do it on your terms. I agree.

Mr. Shimkus. We are not the experts.

So part of the book talks about fairness, reliability, privacy, inclusion, transparency, and accountability. I would encourage the industry and those who are listening to help us move in that direction on their own before we do it for them.

And with that, Mr. Chairman, I yield back my time.

Mr. McNerney. The gentleman yields, and the chair recognizes the chair for 5 minutes.

I would like to -- I mean, it is very interesting testimony and jarring in some ways.

Ms. Peters, your testimony was particularly jarring. Have you seen any authentic offers of weapons of mass destruction being offered for sale online?

Ms. Peters. I have not personally, but we certainly have members of our alliance that are tracking weapons activity. And I think what is more concerning to me in a way

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is the number of illegal groups, from Hezbollah, designated Hezbollah groups to al-Qaida, that maintain web pages and links to their Twitter and Facebook pages from those and then run fundraising campaigns off of them. There are many, many --

Mr. McNerney. I am just interested in the weapons of mass destruction issue.

Ms. Peters. There are many platforms that allow for secret and private groups. It is inside -- those groups are the epicenter of illicit activity. So it is hard for us to get inside those. We have actually run undercover operations to get inside some of them. But we haven't gotten --

Mr. McNerney. All right. Thank you, Ms. Peters.

Mr. Farid, in your testimony, you talked about the tension at tech companies between the motivation to maximize amount of time online on their platforms on the one hand, and on the other hand content moderation. Could you talk about that briefly, please?

Mr. Farid. So we have been talking a lot about 230, and that is an important conversation, but there is another tension point here, and there is another thing, which is the underlying business model of Silicon Valley today is not to sell a product. You are the product.

And in some ways that is where a lot of the tension is coming from, because the metrics we use at these companies for success is how many users and how long do they stay on the platforms. You can see why that is fundamentally in tension with removing users, removing content.

And so the business model is also at issue, and the way we deal with privacy of user data is also at issue here, because if the business model is monetizing your data, well, then I need to feed you information. There is a reason why we call it the rabbit

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hole effect on YouTube. There is a reason why if you start watching certain types of videos of children or conspiracies or extremism, you are fed more and more and more of that content down the rabbit hole.

And so there is real tension there, and it is the bottom line. It is not just ideological. We are talking about the underlying profits.

Mr. McNerney. Okay.

Ms. Oyama, would you like to add to that.

Ms. Oyama. Thank you.

I think many of these issues that we are discussing today, whether it is harassment, extremism, it is important to remember the positive and productive potential for the internet. On YouTube we have seen -- it gets better -- we have seen countermessaging. We have a program called Creators for Change who are able to create really compelling content for youth to counter extremist messages.

And I think it is just good to remember the CDA 230 was born out of this committee. It has been longstanding policy. It is relevant to foreign policy as well. We would support its inclusion in USMCA or any other modern digital trade framework. It is responsible for the \$172 billion surplus the United States has in digital services. It is critically important for small businesses to be able to moderate content and to prevent censorship from other, more oppressive regimes abroad.

Mr. McNerney. It is a great issue, and it is kind of hard to restrain yourself to brief answers. I understand that.

But clearly, companies could be doing more today within the current legal framework to address problematic content. I would like to ask each of you very briefly what you think could be done today with today's tools to moderate content, starting with



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Mr. Huffman. Very briefly, please.

Mr. Huffman. Sure. So for us, the biggest challenge is evolving our policies to meet new challenges. But as such, we have evolved our policies a dozen times over the last couple years, and we continue to do so into the future. For example, two recent ones for us were expanding our harassment policy and banning deepfake pornography.

So undoubtedly there will be -- deepfake pornography wasn't even a word 2 years ago. So undoubtedly there will be new challenges in the future, and being able to stay nimble and address them is really important. 230 actually gives us the space to adapt to these sorts of new challenges.

Mr. McNerney. Okay.

Ms. Citron.

Ms. Citron. I would say so would a reasonableness standard. The nimbleness that reasonable enables is ensuring that we do respond to changing threats. The threats landscape is going to change. We can't have a checklist right now. But I would encourage companies to not only have policies but be clear about them and to be accountable.

Mr. McNerney. Okay.

Dr. McSherry.

Ms. McSherry. Just quickly, the issue for me with the reasonableness standard is as a litigator that is terrifying. That means as a practical matter, especially for a small business, a lot of litigation risk as courts try to figure out what counts as reasonable.

To your question, one of the crucial things I think we need if we want better moderation practices and we want users not to be treated just as products is to incentivize alternative business models. We need to make sure that we clear a space so

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there is competition so then when a given site is behaving badly, such as Grindr, people have other places to go with other practices and they are encouraged to -- you know, other sites are encouraged to develop and evolve. That will make -- market forces sometimes can work. We need to let them work.

Mr. McNerney. Thank you.

I am going to have to cut off my time now, and I am going to yield to the gentlelady from Indiana, Mrs. Brooks, for 5 minutes.

Mrs. Brooks. Thank you, Mr. Chairman. Thank you so much for this very important hearing.

Dr. Farid, actually, to set the record, and the reason I am asking these questions, I am a former U.S. attorney. I was very involved in the Internet Crimes Against Children Task Force. We did a lot of work from 2001 to 2007.

And you are right, Mr. Huffman, deepfake pornography was not a term at that time.

And so we certainly know that law enforcement has been challenged for now decades in dealing with pornography over the internet. And yet, I believe that we have to continue to do more to protect children and protect kids all around the globe.

A concept or tool, PhotoDNA, was developed a long time ago to detect criminal online child pornography, yet it means nothing to detect that illegal activity if the platforms don't do anything about it. And so now we have been dealing with this now for decades. This is not new. And yet, we now have new tools, right, so PhotoDNA. Is it a matter of tools or effort? Or how is it that it is still happening?

Dr. Farid.

Mr. Farid. I have got to say this is a source of incredible frustration. So first of

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all, I was part of the team that developed PhotoDNA back in 2008 with Microsoft. And I will tell you, for an industry that prides itself on rapid and aggressive development, there have been no tools in the last decade that have gone beyond PhotoDNA. That is pathetic, that is truly pathetic when we are talking about this kind of material.

How does an industry that prides itself on innovation say we are going to use 10-year-old technology to combat some of the most gut-wrenching, heartbreaking content online? It is completely inexcusable. This is not a technological limitation. This is we are simply not putting the effort into developing and deploying the tools.

Mrs. Brooks. And let me just share that having watched some of these videos, it is something you never want to see and you cannot get out of your mind.

Mr. Farid. I agree.

Mrs. Brooks. And so I am curious. Ms. Oyama, you wanted to respond, and how is it that we are still at this place?

Ms. Oyama. Yeah. Thank you for the question.

I mean, I will say at Google that is not true at all. We have never stopped working on prioritizing this. We can always do better. But we are constantly adopting new technologies. We initiated one of the first ones, which was called CSAI Match, which enabled us to create digital fingerprints of this imagery, prevent it from ever being re-uploaded on YouTube, and we also share it with NCMEC.

And there is a new tool that we have called a Content Safety API, it is very new, and we are sharing it with others in the industry, with NGOs. It has resulted in a 7X increase in the speed at which this type of content is able to identify.

So it is going to continue to be a priority, but I just wanted to be clear that from the very top of our company, we need to be a safe, secure place for parents and children,

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and we will not stop working on this issue.

Mrs. Brooks. Well, and I am very pleased to hear that there have been advances then, and that you are sharing them, and that is critically important.

However, I will say that Indiana State Police Captain Chuck Cohen, who has actually testified before Energy and Commerce, recently told me that one of the issues that law enforcement runs into when working with internet companies is an attitude that he calls minimally compliant. And he said that internet companies will frequently not preserve content that can be used for investigation if law enforcement makes the companies aware of the concerning materials or automatically flags that content to law enforcement for review without actually checking if it is truly objectionable or not.

Do any of you have thoughts specifically on his comment? He has been an expert. Do any of you have thoughts on how we balance this law enforcement critical need? Because they are saving children all around the globe, Ms. Peters, without restricting companies' immunity from hosting concerning content.

Ms. Peters. I just feel like if companies start getting fines or some sort of punitive damage every time there is illicit content, we are going to see a lot less illicit content very, very quickly. If it is illegal in real life, it should be illegal to host it online. And that is a very simply approach that I think we could apply industry-wide.

Mrs. Brooks. And so I have a question particularly because I asked Mark Zuckerberg this relative to terrorism and to recruitment and ISIS, and now we need to be even be more concerned about ISIS. And I understand that you have teams of people that take it down. How many people are on your team, Mr. Huffman?

Mr. Huffman. Dedicated to?

Mrs. Brooks. Removing content.

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Mr. Huffman. Removing contents at scale and writing our policies, it is about 20 percent of our company. It is about 100 people.

Mrs. Brooks. Twenty percent of your company, about 100 people.

Ms. Oyama, how many people?

Ms. Oyama. More than 10,000 people working on content moderation.

Mrs. Brooks. That actually remove content?

Ms. Oyama. That are involved in the content moderation, development of the policies, or the human --

Mrs. Brooks. But how many people are on the team that actually do that work?

Ms. Oyama. Again, I am happy to get back to you.

Mrs. Brooks. Okay. Thank you.

With that, I yield back. Thank you.

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RPTR WARREN

EDTR CRYSTAL

[12:10 p.m.]

Mr. McNerney. The gentlelady yields.

At this point I would like to introduce a letter for the record. Without objection, so ordered.

[The information follows:]

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Mr. McNerney. Next, the chair recognizes the gentlewoman from New York, Ms. Clarke, for 5 minutes.

Ms. Clarke. I thank our chairman and our chairwoman and our ranking members for convening this joint subcommittee hearing today on fostering a healthier Internet to protect consumers.

I introduced the first House bill on deepfake technology called the DEEPFAKES Accountability Act, which would regulate fake videos. Deepfakes can be used to impersonate political candidates, create fake revenge porn, and theater the very notion of what is real.

Ms. Oyama, Mr. Huffman, your platforms are exactly where deepfakes are shared. What are the implications of Section 230 on your deepfakes policies?

Mr. Huffman. Sure, I will go. Thank you for the question.

So we released actually I think with most of our peers around the same time prohibition of deepfake pornography on Reddit because we saw that as a new emerging threat that we wanted to get ahead of as quickly as possible.

The challenge we face, of course, is the challenge you raise, which is the increasing challenge of being able to detect what is real or not. This is where we believe that Reddit's model actually shines. By empowering our users and communities to adjudicate on every piece of content, they often highlight things that are suspicious, not just videos and images but also texts and news sources.

I do believe very strongly that we as a society, not just us as platforms, but in addition to, have to develop defenses against this sort of manipulation because it is only going to increase.

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Ms. Clarke. Ms. Oyama.

Ms. Oyama. Thank you.

Yes, on YouTube our overall policy is a policy against deceptive practices. So there has been instances where we have seen these deepfakes. I think the Speaker Pelosi video is one example where we identified that. It was a deepfake, and it was removed from the platform.

For both Search and for YouTube, surfacing authoritative, accurate information is core to our business, core to our long-term business incentives.

I would agree with what Mr. Huffman said, is that one of the things that we are doing is investing deeply in the academic side, the research side, the machine learning side to open up data sets where we know these are deepfakes and get better at being able to identify when content is manipulated.

We also do have a revenge porn policy for Search for users who are victimized by that, and we did also expand that to include synthetic images or deepfakes in that area, too.

Ms. Clarke. Very well.

Ms. Citron, could you discuss the implication of Section 230 on deepfakes monitoring and removal?

Ms. Citron. Section 230, sort of the activities that we have seen YouTube and Reddit engage in are precisely the kinds of activities that are proactive in the face of clear illegality, moving quickly.

But the real problem isn't these folks at the table. There are now -- so Deeptrace Labs just issued a poll 2 weeks ago showing that 8 out of the 10 biggest porn sites have deepfake sex videos and there are four sites now that basically their business



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model is deepfake sex videos and that 99 percent of those videos involve women.

Ms. Clarke. So let me ask you. Does the --

Ms. Citron. Section 230 provides them immunity because it is users posting them.

Ms. Clarke. Does the current immunity structure reflect the unique nature of this threat?

Ms. Citron. I don't think that -- so, Section 230, as it is devised, it is, at its best, it is supposed to incentivize the kind of nimbleness that we are seeing for some dominant platforms. But it is not, the way the plain language is written under 230(c)(1), it doesn't condition the immunity on being responsible and reasonable. And so you have these outliers that cause enormous harm because it can be that in a search of your name that there is a deepfake sex video until it is, you know, de-indexed. And it is findable and people then contact you and it is terrifying for victims.

So it is really these outlier companies that their business model is this kind of abuse, and Section 230 is what they point to when they gleefully say, "Sue me. Too bad, so sad." And that is the problem.

Ms. Clarke. Very well.

One of the many issues that has become an existential threat to civil society is the rise of hate speech and propaganda on social media platforms.

Ms. Oyama, if 230 were removed, would platforms be liable for hosting distasteful speech and would it change their incentives around moderating such speech?

Ms. Oyama. Thank you for the question. I think this is a really important area to show the power and the importance of CDA 230.

I mean, as you know, there are First Amendment restrictions on government

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regulation of speech. So there is additional responsibility for service providers like us in the private sector to step up. We have a policy against hate speech. Incitement to violence is prohibited. Hate speech is prohibited. Speech targeting hate at specific groups for attributes based on race, religion, veteran status, age.

And the takedowns that we do every single quarter through automated flagging, through machine learning, or through human reviewers are lawful and possible because of 230. When we take down content, someone's content is being taken down. And so they can regularly come back to any service provider, big or small. They may sue them for defamation or other things.

I think looking at the equities of the small business interests in this space would be really important as well because I think they would say that they are even more deeply reliant on this flexibility and this space to innovate new ways to identify bad content and take it down without fear of unmitigated, you know, litigation or legal risk or legal uncertainty.

Ms. Clarke. Very well. Thank you very much.

I yield back, Madam Chairman.

Ms. Schakowsky. [Presiding.] The gentlelady yields back.

And now, Mr. Walberg, you are recognized for 5 minutes.

Mr. Walberg. I thank the chairwoman.

And I appreciate the panel being here.

Today's hearing and the issues at hand hit home for a lot of us, as we have discussed here. The internet is such an amazing, amazing tool. It has brought about great innovation, connecting millions of people in ways that were never even thought of before. And, I mean, truthfully we look forward to what we will see in the future. But

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these are issues we have to wrestle with.

Earlier this year I was pleased to invite Haley Petrowski from my district to the State of the Union as my guest to highlight her good work that she is doing in my district and surrounding areas to help combat cyberbullying, a very much comprehensive individual who understands so much as a young person of what is going on and is having a real impact in high schools and in colleges now as a result of her experience and trying to attempt to make some positive things out of it after she almost committed suicide, and thankfully it wasn't successful, as a result of cyberbullying. She has shined a light on that.

So, Mr. Huffman and Ms. Oyama, what are your companies doing to address cyber bullying on your platforms?

Mr. Huffman. Sure. Thank you for the question, Congressman.

Just 2 weeks ago we updated our policies around harassments. It is one of the, I think, most complex or nuanced challenges we face because it appears in many ways.

One of the big changes we made is to allow harassment reports not just from the victim but from third parties. Basically if somebody else sees instances of harassment, they will report it to us and our team so that we can investigate.

This is a nationwide issue, but particularly on our platform when people come to us in times of needs. For example, a teenager struggling with their own sexuality has no place to turn, maybe not their friends, not their family, so they come to a platform like ours to talk to others in difficult situations; or people who are having suicidal thoughts come to our platform. And it is our first priority, regardless of the law, though we fully support lawmakers in this initiative, to make sure that those people have safe experiences on Reddit.

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So we have made a number of changes, and we will continue to do so in the future.

Mr. Walberg. Okay.

Ms. Oyama.

Ms. Oyama. Thank you for the question.

On YouTube harassment and cyberbullying is prohibited. And so we would use our policies to help us enforce, and either through automated detection, human flagging, community flagging we would be able to identify that content and take it down. Last quarter we removed 35,000 videos under that policy against harassment and bullying.

And I did just want to echo Mr. Huffman's perspective that the internet and content sharing is also a really valuable place. It can serve as a lifeline to a victim of harassment or bullying. And we see that all the time when someone may be isolated in their school or somewhere else. Being able to reach out across borders to another State or to find another community has really created a lot of hope. And we also want to continue to invest in that important educational, mental health resources, content like that.

Mr. Walberg. Well, I am glad to hear you both are willing to continue investing and helping us as we move forward in this area.

Ms. Oyama, Google's Ad network has come a long way in the last few years and won't serve ads next to potentially illegal activity. This is laudable and demonstrates Google has come a long way in identifying illegal activity. Given that Google is able to identify such activity, why would it not just take down the content question?

Ms. Oyama. [Inaudible.] I am sorry.

Mr. Walberg. That was for Ms. Oyama, for you.

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Ms. Oyama. It is true that on our Ad system we do have a risk engine, and so we prohibit illegal content. There are many different policies, and they are stricken, more than 2 billion ads every year are stricken out of the Ad network for violating those policies, illegal and beyond.

Mr. Walberg. So you are taking them down.

Ms. Oyama. Yes, absolutely, before they are ever able to hit any page. I think it is very squarely in line with our business interests. We want advertisers to feel that our network, that our platforms with safe. Our advertisers only want to be serving good ads to good content.

Mr. Walberg. One final question. I understand that Google offers a feature to put a tag on copyrighted work that would automatically take it down if pirated and uploaded, but Google that charges a fee for this. Can this technology be applied to other legal content? And why doesn't Google offer this tool for free?

Ms. Oyama. Thank you for the question.

I think that may be a misperception, because we do have Content ID, which is our copyright management system. It is automated. We have partners across the music industry, film, I think every leading publisher is part of it. It is part of our partner program, so it is offered for free, and actually it doesn't cost the partners anything.

It is a revenue generator. So last year we sent \$3 billion based on Content ID claims of corrected material that right holders claimed. They were able to take the majority of the ad revenue associated with that content and it was sent back out to them.

And that is system of being able to identify and detect algorithmically content, to then set controls, whether it should be in the entertainment space perhaps monetized and served or in the case of violent extremism absolutely blocked is something that

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powers much of YouTube.

Mr. Walberg. Thank you. I yield back.

Ms. Schakowsky. The gentlemen yields back.

And, Mr. Loeb sack, you are recognized for 5 minutes.

Mr. Loeb sack. Thank you, Madam Chair.

I do want to thank Chairman Doyle and Chair Schakowsky and the two ranking members of the subcommittees for holding this hearing today.

And I want to thank the witnesses for your attendance as well. This has been very informative, even if we are not able to answer all the questions we would like to be able to answer.

And it is not the first time our committee has examined how social media and the internet can be both a force for innovation and human connection -- which we all enjoy when we are making those connections, so long as they are positive obviously -- but also a vector of harm and criminality.

I think everyone assembled here today is clearly very expert in your field, and I appreciate hearing from you all today as we consider how Section 230 has been interpreted by the courts since its initial passage and what, if any, changes we should be considering.

I think there is a lot to consider as we discuss the full scope of what Section 230 covers. From cyberbullying and hate speech, whether on Facebook, YouTube or elsewhere, to the illicit transaction of harmful substances or weapons, I think the question today is twofold.

First, we must ask if content moderators are doing enough. And, second, we must ask whether congressional action is required to fix these challenges. That second

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one has kind of been referred to obliquely throughout by some of you, by some of us, but I think that is essentially the second question that we are really facing today.

And after reviewing the testimony you have submitted, we clearly have some differences of opinion on whether Section 230 is where Congress should be focusing its resources.

So, to begin, I would like to ask everyone the same question, and this is probably at once the easiest question to answer and the most difficult because it is exceedingly vague. What does the difference between good and bad content moderation look like?

Start with you, Mr. Huffman.

Mr. Huffman. Thank you, Congressman, for that philosophically impossible question, but I think there are a couple of easy answers that I hope everybody on this panel would agree with.

Bad content moderation is ignoring the problem. And that was the situation we were in pre-230, and that was the sort of perverse incentives we were facing.

I think there are many forms of good content moderation. What is important to us at Reddit is twofold. One, empowering our users and communities to set standards of discourse in their communities and amongst themselves. We think this is the only truly scalable solution. And the second is what 230 provides us, which is the ability to look deeply in our platform to investigate, to use some finesse and nuance when we are addressing new challenges.

Mr. Loebsack. Thank you.

Ms. Citron.

Ms. Citron. What was the question? To be about what makes bad -- what makes content bad or was it what makes --

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Mr. Loebsack. Moderation.

Ms. Citron. Okay.

Mr. Loebsack. What is the difference between good and back content moderation.

Ms. Citron. Moderation. Okay.

Mr. Loebsack. Because that is what we are talking about.

Ms. Citron. No, of course, but it precedes the question of why we are here. That is, what kinds of harms get us to the table to say why we should even try to talk about changing Section 230.

And I would say what is bad or incredibly troubling is when sites are permitted to have an entire business model which is abuse and harm. So by my rights that is the worst of the worst and sites that induce and solicit illegality and harm, and that to me is the most troubling.

Mr. Loebsack. And that is the problem. But then the question is how to deal with the problem in terms of moderation.

Ms. Citron. And I have got some answers for you, but, you know, if we want to wait to do that.

Mr. Loebsack. You can submit them to us in writing if you would like.

Ms. Citron. I did in my testimony.

Mr. Loebsack. I understand that.

Ms. Citron. We have got to deal with the bad Samaritans and then a broader approach.

Mr. Loebsack. Thank you.

Ms. McSherry.



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Ms. McSherry. Thank you. Thank you for the question.

I actually think it is great question. And I think, as someone who supports civil liberties online as a primary goal for us, I think good content moderation is precise, transparent, and careful. What we see far too often is that in the name of content moderation and making sure the internet is safe for everybody, actually all kinds of valuable and lawful content is taken offline.

There are details about this submitted in our testimony, but I would just point to one example where we have an archive of -- there is an archive of videos attempting to document war atrocities, but those videos are often flagged as violating terms of service because, of course, they contain horrible material. But the point is to actually support political conversations and it is very difficult for the service providers to apparently tell the difference.

Mr. Loebsack. Thank you.

Ms. Peters.

Ms. Peters. If it is illegal in real life, it ought to be illegal online. Content moderation ought to focus on illegal activity. And I think there has been little investment in technology that would improve this for the platforms precisely because of Section 230 immunities.

Mr. Loebsack. Thank you.

I do realize I am out of time. I am sorry I asked such a broad question of all of you, but I would like to get your response, if I could, the final two witnesses here, in writing, if I could, please.

Thank you so much. And I yield back. Thank you.

Ms. Schakowsky. The gentleman yields back.

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And now I recognize Mr. Carter for 5 minutes.

Mr. Carter. Thank you, Madam Chair.

And thank all of you for being here.

I know that you all understand how important this is, and I hope that you -- and I believe you all take it seriously. So thank you for being here and thank you for participating in this.

Ms. Peters, I am going start with you. I would like to ask you, in your testimony you pointed out that there is clearly quite a bit of illegal conduct that the online platforms still are hosting, for instance, illegal pharmacies where you can buy pills without a prescription; terrorists that are profiteering off of looted artifacts; and also products from endangered species. And then it even gets worse. You mentioned the sale of human remains and child exploitation, I mean, just gross things, if you will.

How much effort do you feel like the platforms are putting into containing this and to stopping this?

Ms. Peters. Well, it depends on the platform. But that is a very good question. And I would like to respond with a question to you and to the committee: When was the last time anybody here saw a dick pic on Facebook? Simple question.

If they can keep genitalia off of these platforms, they can keep drugs off these platforms. They can keep child sexual abuse off these platforms. The technology exists. These are policy issues, whether it is the policy to allow the video of Nancy Pelosi on or the policy to allow pictures of human genitalia.

Mr. Carter. I get it. I understand.

Let me ask you this. Do you ever go to them and meet with them and express this to them?

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Ms. Peters. Absolutely.

Mr. Carter. And how are you received?

Ms. Peters. We are typically told that the firm has quite intelligence people working on it, that they are creating AI, and that in a few years that AI is going to work. And when we have presented evidence of specific, identifiable crime networks and terror networks, we have been told that they will get back to us and then they don't. That has happened multiple times.

Mr. Carter. Are you ever told that they don't want to meet with you? I mean --

Ms. Peters. No, we have usually gotten meetings or calls.

Mr. Carter. So you feel like you got a good relationship. Do you feel like the effort is being put forth?

Ms. Peters. I don't feel like effort is being put forth. I feel like --

Mr. Carter. You see, that is where I struggle, because I don't want the -- you know, I am doing my best to keep the Federal Government out of this. I don't want to stifle innovation, and I am really concerned about that.

But at the same time, look, we cannot allow this to go on. This is irresponsible. And if you don't do it, then you are going to force us to do it for you and I don't want that to happen. I mean, it is just as clear as that.

Let me ask, Ms. Peters, you also mentioned in your testimony that you were getting funding from the State Department to map wildlife supply chains, and that is when you discovered that there was a large retail market for endangered species that exists on some platforms like Facebook and WeChat. Have any of these platforms made a commitment to stop this? And if they have, is it working? It getting any better?

Ms. Peters. I mean, that is a terrific example to bring up, sir. A number of tech

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firms have joined a coalition with World Wildlife Fund and IFAW and have taken a pledge to remove endangered species content and wildlife markets from their platforms by 2020.

I am not aware that anything has changed. We have researchers going online and logging wildlife markets all the time.

Mr. Carter. All right. I am going to be fair. Okay. I am going to be fair and I am going to let the Google -- I am sorry, I can't see that far -- I am going to let you respond to that.

Do you feel like you are doing everything you can?

Ms. Oyama. Thank you.

We can always do more. I think we are committed to always doing more.

Mr. Carter. I appreciate that. I know that. I don't need you to tell me that. I need you to tell me we have got a plan in place and it is fixed and then stop this.

Ms. Oyama. Let me tell what you we are doing in the two categories that you mentioned.

So for wildlife, the sale of the endangered species is prohibited from Google Ads, we are part of the coalition that Ms. Peters mentioned.

On the national epidemic that you mentioned for opioids, we are hugely committed to helping and playing our part in combating this epidemic.

So there is an online component and an offline component. The online component, the research has showed that less than 0.05 percent of misuse of opioids originates on the internet. And what we have done, especially with Google Search, is work with the FDA. So the FDA can send us a warning letter if they see that there is a link in Search for a rogue pharmacy, and we will delist that out of Search.

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There is a really important offline component, too. So we work with the DEA on Prescription Takeback Day. We feature these places in Google Maps, on CBS. Happy to come in and --

Mr. Carter. Okay. And I invite you to do just that, okay. I would like to see you and talk to you further about this.

Mr. Huffman, I am going to give you the opportunity, because we have gone, my staff has gone on Reddit, and they have googled, if you will, or searched for illegal drugs, and it comes up. And I suspect you are going to tell me the same thing: We are working on it. We have almost it got it under control. But it is still coming up.

Mr. Huffman. I have got a slightly different answer, if you will indulge me.

First of all, it is against our rules to have controlled goods on our platform, and it is also illegal. 230 doesn't give us protection against criminal liability.

We do see content like that on our platform. And, in fact, if you went to any technology service with a search bar, including your own emails, and typed in "buy Adderall," I am sure you would find a hit in your spam folder at least, and that is the case on Reddit as well.

That sort of content that has come up today is spam first, gets removed by our filters, but there is a lag sometimes between something being submitted and something being removed. Naturally, that is how the system works.

That said, we do take this issue very seriously, and so our technologies have continued to improve along these lines. And that is exactly the sort of ability that 230 gives us, is the ability to look for this content and remove it.

Now, to the extent that you or your staff have found this content specifically, and to the extent that it is still on our platform, we would be happy to follow up later because

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it shouldn't be.

Mr. Carter. You know, my sons are grown now, but I feel like a parent pleading with their child again: Please don't make me have to do this.

Thank you, Madam Chair. I yield back.

Ms. Schakowsky. The gentleman yields back.

And now I recognize Congresswoman Kelly for 5 minutes.

Ms. Kelly. Thank you, Madam Chair. Thank you for holding this important hearing on Section 230 and fostering a healthier, more consumer-friendly internet.

The intended purpose of Section 230 was to allow companies to moderate content under the good Samaritan provision, and yet this law seems to be widely misapplied. The good Samaritan provision in Section 230 was intended in good faith to restrict access or availability of materials that the provider or user considers to be obscene, lewd, lascivious, filthy, excessively violent, harassing, or otherwise objectionable, whether or not such material was constitutionally protected.

Last Congress, Section 230 was amended through SESTA and FOSTA to make platforms libel for any activity related to sex trafficking. Since passage, some have criticized the law for being too ambiguous.

In addition to my work on this committee, I chair the House Tech Accountability Caucus. In that capacity, I have sought to work with stakeholders to protect family users in an accountable manner while allowing innovators to innovate.

Today, as we look to foster a healthier, more consumer-friendly internet, it is my hope our discussion will set the standard of doing so in a responsible, effective, and balanced way.

Professor Citron, in your testimony you discussed giving platforms immunity from

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liability if they could show that their content moderation practices writ large are reasonable. As the chairman referenced, how should companies know where the line is or if they are doing enough? Where is that line?

Ms. Citron. And the sort of genius of reasonableness is that it matters and depends on the context. There is certainly some baseline presumptions, I would say defaults, about what would constitute reasonable content moderation practices, and that includes having them. There are some sites that don't engage in that at all. In fact, they absolutely don't engage in moderation and they encourage abuse and illegality.

But there are some baseline, I think, academic writing for the last 10 years and work I have done with companies for 10 years is there is a baseline set of speech rules and policies that we have seen that are best practices, but naturally that is going to change, depending on the challenge.

So we are going to have different approaches to different new and evolving challenges. And that is why a reasonableness approach which preserves the liability shield, right, but it does it in exchange for those efforts.

Ms. Kelly. And would you agree that any changes we make, we have to ensure that it doesn't further ambiguity?

Ms. Citron. Right. And I think just to, if I may, about FOSTA and SESTA, what was disappointing to someone who certainly helped some offices work on the language is when you included the language "knowingly facilitate," that is the moderator's dilemma, that is, to either sit on your hands or to be overly aggressive.

And so my biggest disappointment was unfortunately how it came out, because we do see -- we almost see ourselves back to Prodigy and CompuServe, those initial cases, and either we are seeing way overly aggressive responses to sexual expression online,

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which is a shame, and we see the doing nothing. So I hope we don't do that.

Ms. Kelly. Thank you.

The way people communicate is changing rapidly, as we all know. Information can start on one platform and jump to another and go viral very quickly. The 2016 election showcased how false information can spread and how effective it can be to motivate or deter different populations. Often offensive content is first shared in groups and then filtered out to a wider audience.

Ms. Peters, what do you believe is the responsibility of tech companies to monitor and proactively remove content that is rapidly spreading before being flagged by users?

Ms. Peters. I believe that companies need to moderate and remove content when it concerns a clearly illegal activity. If it is illegal in real life, it ought to be illegal to host it online. Drug trafficking, human trafficking, wildlife trafficking, serious organized crime, and designated terror groups should not be given space to operate on our platforms.

I also think that CDA 230 needs to be revised to provide more opportunities for State and local law enforcement to have the legal tools to respond to illicit activity. That is one of the reasons FOSTA/SESTA was passed.

Ms. Kelly. And Ms. Oyama and Mr. Huffman, what steps are you taking beyond machine learning to stop the spread of extremist or misinformation content that is being shared widely? Are there flags that pop up if the same content is shared 10,000 or 100,000 times?

Ms. Oyama. Yes. Thank you for the question.

So on YouTube we are using machines and algorithms. Once content is identified and removed, our technology prevents it from being re-uploaded.



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But I think to your really important point about working across platforms and cross-industry collaboration, a good example would be the GIFCT, the Global Internet Forum to Counter Terrorism. We are one of the founding members. Many of the leading players in tech are part of that.

One of the things that we saw during the Christchurch shooting was how quickly this type of content can spread. And we were grateful to see that last week some of the crisis protocols we put into place kicked in. So there was a shooting in Germany. There was a piece of content that appeared on Twitch, and the companies were able to engage in the crisis protocol. There was a hash made of the content, it was spread across the companies, and that enabled all of us to block it.

Ms. Kelly. And now I am out of time.

Thank you.

Ms. Schakowsky. The gentlelady yields back.

And Mr. Bilirakis is recognized for 5 minutes.

Mr. Bilirakis. Thank you, Madam Chair. I appreciate it very much.

My first question is for Dr. McSherry, a yes or no. I understand in the past EFF has argued for including language mirroring legislation in trade deals explicitly for the purpose of baking language into an agreement to protect the statute domestically. Do you see the intent of including such 230-like language in trade agreements is to ensure that we may not revisit the statute?

Ms. McSherry. No.

Mr. Bilirakis. Okay. All right. Thank you very much.

And then what I would like to do, Madam Chair, I would like to ask that EFF, the blog post from January 23, 2018, by Jeremy Malcolm be entered into the record.

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Ms. Schakowsky. Without objection, so ordered.

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Mr. Bilirakis. Thank you, Madam Chair. I appreciate it.

The next question is for Mr. Huffman and Ms. Oyama. In April 2018, I questioned Mark Zuckerberg about how soon illegal opioid ads would be removed from their website. His answer was that the ads would be reviewed when they were flagged by users as being illegal or inappropriate. This, of course, is a standard answer in the social media space.

However, Mr. Zuckerberg also said at the time that industry needs to, and I quote, "build tools that proactively go out and identify ads for opioids before people even have to flag them for us to review," and that ends the quote. This would significantly, in my opinion, cut down the time an illegal ad would be on their website.

Again, Mr. Huffman and Ms. Oyama, it has been a year and a half. This is an epidemic and people are dying. I am sure you will agree with this. Has the industry been actively working on artificial intelligence flagging standards that can automatically identify illegal ads? And then what is the status of this technology and when can we expect implementation, if they have been working on it?

Whoever would like to go first is fine.

Mr. Huffman.

Mr. Huffman. Sure. Thank you, Congressman.

So Reddit is a little different than our peers in that all of our ads go through a strict human review process, making sure that not only are they on the right side of our content policy, which prohibits the buying and selling of controlled substances, but also our much more strict ads policy, which has a much higher bar to cross because we do not want ads that cause any sort of controversy on our platform.

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Mr. Bilirakis. Okay. But, I mean, you know, we have to be proactive as far as this concerned, and Mr. Zuckerberg indicated that that is the case. You know, these kids are dying, people are dying, and we just can't stand by and have this happen and have access to these, well, in most cases opioids and drugs, different types of drugs.

But, Ms. Oyama, would you like to comment, please?

Ms. Oyama. Thank you.

We certainly agree with your comment about the need for proactive efforts. So on Google Ads we have something called a risk engine that helps us identify if an ad is bad when it is coming into the system. We can kick it out. Last year, in 2018, we kicked out 3.2 billion ads out of our system for violating our policies.

For any prescription that would show up in an ad, that is also independently verified by an independent group called LegitScript. So that would need to also be verified by them.

And then, of course, in the specific case of opioids, those are a controlled substance under Federal law. So, there is a lot of important work that we have done with the DEA, with the FDA, even with pharmacies like CVS offline to help them promote things like Take Back Your Drugs Day where people can take opioids in and drop them off so they are not misused later on.

One of the things that we have seen is that the vast majority, more than 99 percent of opioid misuse, happens in the offline world, so from a doctor that is prescribing it or a family member or a friend. And so using technology to also educate and inform people that might be potentially victimized from this is equally important to some of the work that we are doing in the ad space.

Mr. Bilirakis. Okay. How about anyone else on the panel, would they like to

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comment? Is the industry doing enough?

Ms. Peters. I don't think the industry is doing enough. There is an enormous amount of drug sales taking place on Google Groups, on Instagram, on Facebook groups. The groups on these platforms are the epicenter, and this is why industry has to be monitoring this. If you leave this up to users to flag it and they are inside a private or a secret group, it is just not going to happen.

These firms know what user are getting up to. They are monitoring all of us all the time so they can sell us stuff. This can figure this out.

Mr. Farid. Congressman, can I also add there are two issues here. There are the ads, but there is also the native content. So you heard Ms. Peters say that she went this morning and searched on Reddit and that content is there, even if it is not in the ads, and the same is true on Google Search. I can search for this. So there are two places you have to worry about these things, not just the ads.

Mr. Bilirakis. Very good.

All right. Thank you, Madam Chair. I yield back.

Ms. Schakowsky. The gentleman yields back.

And now I call on the chairman of our full committee for 5 minutes, Mr. Pallone.

The Chairman. Thank you, Madam Chair.

I wanted to start with Ms. Oyama. In your written testimony you discuss YouTube's community guidelines for hate speech, and I am concerned about news reports that hate speech and abuse is on the rise on social media platforms.

How does Section 230 incentivize platforms to moderate such speech? And does Section 230 also incentivize platforms to take a hands-off approach to removing hate speech, if you will?

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Ms. Oyama. Thank you so much for the question.

So on the category of hate speech, YouTube prohibits hate speech. We have a very clear policy against it. So that would be speech that incites violence or speech that is hateful against groups with specific attributes. So that could be speech based on their race, their religion, their sex, their age, their disability status, their veteran status.

And so that is prohibited. It can be either detected by our machines, which is the case in more than 87 percent, by community flaggers, by individual users. And all of those actions that we take, last quarter, we saw a 5X increase in the amount of content that our machines were able to find and remove. Those removals are vitally dependent on the protection in CDA 230 to give service providers the ability to moderate content, to flag bad content, and to take it down.

We do have claims against us when we remove speech. People may sue us for defamation. They may have other legal claims. And 230 is what enables not only Google or not only YouTube but any site with user comments, with user-generated content, any site on the internet, large or small, to be able to moderate that content.

So I think we would just encourage Congress to think about not harming the good actors, the innocent actors that are taking these steps in an effort to go after a truly bad criminal actor where criminal law is fully exempted from the scope of the CDA 230. And they should be penalized and law enforcement will play a really important role in bringing them down, as they did with Backpage that was taken down or on civil cases like Roommates.com where there is platform liability for bad actors that break the law.

The Chairman. Thank you.

Dr. Farid, in your written testimony you state that the internet has led to the proliferation of domestic and international terrorism. As you may know, there is both

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criminal and civil liability associated with providing material support for terrorism.

But I want to start with Dr. McSherry. Understanding that Section 230 doesn't apply to Federal criminal law, have U.S. social media companies used 230 to shield themselves from civil liability for allowing their platforms to be used as propaganda in recruitment platforms for terrorists with regard to civil liability?

Ms. McSherry. So there are ongoing cases and there have been several cases where platforms have been accused of violating civil laws for hosting certain kinds of content on their platforms, and they have invoked Section 230 in those cases quite successfully.

And I think that is not -- if you look at the facts of a lot of those cases, that is actually quite appropriate. The reality is it's very difficult for a platform to always be able to tell in advance, always draw the line in advance between content that is talking, that is simply protected political communications, and content that steps over a line. So these cases are hard and they are complicated and they have to get resolved on their facts.

Section 230, though, also creates a space in which, because of the additional protections that it provides, it creates a space for service providers when they choose to, to moderate and enforce their own policies.

The Chairman. Let me go back to Dr. Farid.

Do you have any thoughts on how this should be addressed from a technological perspective?

Mr. Farid. I want to start by saying, when you hear about the moderation that is happening today -- we have heard it from Google, we have heard it from Reddit -- you should understand that has only come after intense pressure. It has come from

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pressure from advertisers. It has come from pressure on Capitol Hill. It has come from pressure in the EU. And it has come from pressure from the press. So there is bad news, there is bad PR, and then we start getting serious.

For years we have become struggling with the social media companies to do more about extremism and terrorism online and we have hit a hard wall. And then the EU started putting pressure. Capitol Hill started putting pressure. Advertisers started putting pressure. And we started getting responses.

I think this is exactly what this conversation is about, is what is the underlying motivating factor? The self-regulation of "trust us, we will do everything" is not working. So the pressure has to come from other avenues.

And I think putting pressure by modest changes to CDA 230 is the right direction. And I agree with Ms. Oyama is that if these are good actors, then they should encourage that change and help us clean up and deal with the problems that we are dealing.

I have been in this fight for over a decade now and it is a very consistent pattern. You deny the problem exists, you minimize the extent of it, you deny the technology exists, and eventually you get enough pressure and then we start making changes. I think we should skip to the end part of that and just recognize that we can do better and let's just start doing better.

The Chairman. Thank you.

Thank you, Madam Chair.

Ms. Schakowsky. The gentleman yields back.

And now I recognize for 5 minutes Congressman Gianforte.

Mr. Gianforte. Thank you, Madam Chair.

And thank you for being here today.



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About 20 years ago I harnessed the power of the internet to launch a business to improve customer service. That company was called RightNow Technologies. And from a spare bedroom in our home we eventually grew that business to be one of the largest employers in Montana. We had about 500 high-wage jobs there.

The platform we created had about 8 million unique visitors per day. And I understand how important Section 230 can be for small business. This important liability shield has gotten mixed up, however, with complaints about viewpoint discrimination.

And I want to cite one particular case. In March of this year Missoula-based Rocky Mountain Elk Foundation reached out to my office because Google had denied one of their advertisements. The foundation did what it had done many times. They had tried to use paid advertising on the Google network to promote a short video about a father hunting with his daughter.

This time, however, the foundation received an email from Google, and I quote: "Any promotions about hunting practices, even when they are intended as a healthy method of population control or conservation, is considered animal cruelty and deemed inappropriate to be shown on our network."

The day I heard about this I sent a letter to Google and you were very responsive, but the initial position taken was absurd. Hunting is a way of life in Montana, in many parts of the country. I am very thankful that you worked quickly to reverse that, but I remain very concerned about Google's effort to stifle the promotion of Rocky Mountain Elk Foundation and how they were treated. I worry that other similar groups have faced similar efforts to shut down their advocacy.

We really don't know how many hunting ads Google has blocked in the last

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5 years. In my March letter, I invited Google's CEO to meet with leaders of our outdoor recreation businesses in Montana. I haven't heard anything back.

And, Ms. Oyama, I would extend the invitation again.

I think, frankly, it would help Google to get out of Silicon Valley, come to Montana, sit down with some of your customers, and hear from them directly about the things that are important to them. I would be happy to host that visit. We would love to meet with you there.

I think it is important to understand the work that these groups do to further conservation and to help species thrive. And as an avid hunter and outdoorsman myself, I know many businesses in Montana focus on hunting and fishing. And I worry they may be denied the opportunity to advertise on one of the largest online platforms that you have built, to your credit.

I also worry that an overburdensome regulatory regime could hurt small businesses and stifle Montana's rapidly growing high-tech sector. So the invitation is open.

Dr. Farid, one question for you. How can we walk this line between protecting small business and innovation versus overburdensome regulations?

Mr. Farid. It is absolutely the right question to ask, Congressman. I think you have to be very careful here because right now we have near monopolies in the technology sector. And if we start regulating now, the small companies coming up are not going to be able to compete.

There are ways of creating carve-outs. In the EU and the U.K., as they are talking about regulations, they are creating carve-outs for small platforms that have 8 million versus 3 billion users.

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So I do think we want to tread very lightly here. I think Ms. Peters also made the point that we want to inspire competition for better business models and allow these small companies. But I think there are mechanisms to do that. We just have to think carefully about it.

Mr. Gianforte. We have had a lot of discussion today about the efforts you are taking to get criminal activity off the network, so I applaud that. We should continue to do that.

But as a follow-on, Doctor, how do we ensure that content moderation doesn't become censorship and a violation of our First Amendment?

Mr. Farid. Good. So the way we have been thinking about content moderation is a collaboration between humans and computers. What computers are very good at doing is the same thing over and over and over again, but what they are not good at still is nuance and subtlety and complexity and inference and context.

So the way content moderation works today, for example, in the child sexual abuse space is human moderators say this is a child, this is sexually explicit. We fingerprint that content, and then we remove very specifically and very targeted that piece of content.

False alarm raids for PhotoDNA that we developed a decade ago are about 1 in 50 billion. That is the scale you need to be operating at. So if you are going to deploy technology, you have to be at a very -- automatic technology you have to be operating at very high scale. And so the humans -- the computers can't do that on their own, so we need more human moderators.

You heard from Google, 10,000 moderators. There are 500 hours of video uploaded a minute. That is not enough moderators. You can do the arithmetic

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yourself. Those moderators would have to be looking at hours and hours of video per hour. So we have to also beef up our human moderation.

Mr. Gianforte. Okay. Thank you.

And, Ms. Oyama, I look forward to seeing you in Montana.

And I yield back.

Ms. Schakowsky. The gentleman yields back.

And now I recognize -- Congresswoman Blunt Rochester is next for 5 minutes.

Ms. Blunt Rochester. Thank you, Madam Chairwoman.

And to the chairmen and ranking members, thank you for holding this important hearing.

I think many of us here today are seeking to more fully understand how Section 230 of the Communications Decency Act can work well in an ever-changing virtual and technological world. This hearing is really significant, and as Ms. Oyama said, I want us to not forget the important things that the internet has provided to us, from movements to applications to TikTok.

But also, as Mr. Huffman said, we -- and you applied it to Reddit but I think it applies to all of us -- must constantly be evolving, our policies must be evolving to face the new challenges while also balancing our civil liberties. So we have a really important balance here.

So my questions really are surrounded around this, the question that Mr. Loeb sack asked about bad content moderation. And I want to start off by saying that the utilization of machine-learning algorithms and artificial intelligence to filter through content posted on websites as large as YouTube provides an important technological solution to increasing the amount of content to moderate.

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However, as we become more and more reliant on algorithms, we are increasingly finding blind spots and gaps that may be difficult to breach with simply more and better code.

I think there is a real concern that groups already facing prejudice and discrimination will be further marginalized and censored. And as I thought about this, I even thought about groups like the veterans or the African American community in the 2016 elections.

Dr. Farid, can you describe some of the challenges with moderation by algorithm, including possible bias?

Mr. Farid. Yeah. So I think you are absolutely right, Congresswoman. When we automate at the scale of the internet, we are going to have problems, and we have already seen that. We know, for example, that face recognition does much, much worse on women, on people of color than it does on White men.

The problem with the automatic moderation is that it doesn't work at scale. When you are talking about billions of uploads, and if your algorithm is 99 percent accurate, which is very, very good, you are still making 1 in 100 mistakes. That is literally tens of millions of mistakes a day you are going to be making at the scale of the internet.

And so the underlying idea that we can fully automate this not to take on the responsibility and the expense of hiring human moderators simply doesn't work. And so I fear that we have moved too far to give us time to find the AI algorithms because we don't want to hire the human moderators because of the expense.

And we know today that is not going to work in the next year, 2 years, 5 years, 10 years. And it is a little bit worse than that because it also assumes an adversary that is not adapting, and we know that the adversaries can adapt. So we know, for example,

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that all machine learning and AI algorithms today that are meant to identify content are vulnerable to what are called adversarial attacks. You could add small amounts of content to the information, and you can completely fool the system.

Ms. Blunt Rochester. I want to ask a quick question of Mr. Huffman and Ms. Oyama. Both of you talked about the number of human moderators that you have available to you, and I know that we have had many hearings on challenges of diversity in the tech field.

I am assuming, Mr. Huffman, yours are more from the user perspective in terms of moderators or are they people that you hire and the 10,000 or so that you mentioned, these are people that you hire or are they users? Just a quick, so everybody knows, users, combination?

Mr. Huffman. For us, it is about 100 employees out of 500, and, of course, millions of users participate as well.

Ms. Blunt Rochester. Got you. That is what I thought.

Okay. Same?

Ms. Oyama. So the 10,000 set that I mentioned is the mixture of the full-time employees. We also work with specialized vendors. And then we also have community flagging, which could be an NGO, could be law enforcement, could be an average user.

Ms. Blunt Rochester. Okay. I know in the interest of time I don't have a lot of time, but could you provide us with information on the diversity of your moderators? That is one of my questions.

And then also I don't like to make assumptions, but I am going to assume that it might be a challenge to find diverse populations of individuals to do this role, what you

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are doing in that vein. So if we could have a follow-up with that.

And then my last question is just going to be for the panel. What should the Federal Government, what should we be doing to help in this space? Because I am really concerned about the capacity to do this and do it well. If anybody has any suggestion, recommendation. Mr. Farid is already pushing his button.

Mr. Farid. I think this conversation is helping. I think you are going to scare the bejesus out of the technology sector, and I think that is a really good thing to do.

Ms. Blunt Rochester. Okay. I have to yield back. I am out of time. But thank you so much to all of you for your work.

Ms. Schakowsky. The gentlewoman yields back.

And now, last but not least, Representative Soto, you are recognized for 5 minutes.

Mr. Soto. Thank you, Madam Chairwoman.

First of all, thank you for being here. I am the last one, so you are in the homestretch here.

It is amazing that we are here today when we think about how far the internet has progressed. One of the greatest inventions in human existence, connecting the world, giving billions a voice, while before their stories would never be told, providing knowledge at our fingertips. It is just incredible.

And we know Section 230 has been a big part of it, providing that safe harbor against a dam, essentially the dam holding back the flood of lawsuits. It has created innovation. But it has also created a breeding ground for defamation and harassment, for impersonation and election interference, and also a breeding ground for White supremacists, disinformation, global terrorism, and other extremism.

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So we have these wonderful gifts to humanity on one side and then all the terrible things with humanity on the other side.

My biggest concern is that lies spread faster than the speed of light in the internet, while truth seems to go at a snail's pace on it. So that is one thing that I constantly hear from my constituents.

So I want to start with some basics just so I know everybody's opinion on it. Who do you all each think should be the cop on the beat to be the primary enforcer with the choices being FCC, FTC, or the courts? And it would be great to go down the line to hear what each of you think on that.

Mr. Huffman. If those are my only three options, I would choose --

Mr. Soto. You could give a fourth if you could give a few-word answer.

Mr. Huffman. I think, in the United States, society; and on our platform, our users.

Mr. Soto. Okay. Who do you think should be the cop on the beat?

Ms. Citron. I am going to take your second-best option, which is the courts.

Mr. Soto. The courts.

Ms. Citron. Because it forces in some sense the companies actually to be the norm producers.

Mr. Soto. Okay. Dr. McSherry.

Ms. McSherry. Yes. So I think the courts have a very important role to play, but also a cardinal principle for us at EFF is at the end of the day users should be able to control their internet experience.

Mr. Soto. Okay.

Ms. McSherry. We need to have many, many more tools to make that possible.



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Mr. Soto. Ms. Peters.

Ms. Peters. I think that is a ridiculous argument. The vast majority of people -- I study organized crime.

Mr. Soto. Well, let's get back to --

Ms. Peters. Hold on. I am going answer the question. Courts and law enforcement.

Mr. Soto. Thank you.

Ms. Peters. Most people are good. A small percentage of people statistically in any community commit crime.

Mr. Soto. Okay. Ms. Oyama.

Ms. Peters. You have to control for it.

Mr. Soto. Thank you.

Ms. Oyama.

Ms. Oyama. Content moderation has always been a multi-stakeholder approach, but I wanted to point out that the courts and the FTC do have jurisdiction. And, as you know, the FTC does have broad jurisdiction over tech companies already and the courts are always looking at the outer contours of CDA 230.

Mr. Soto. Thank you.

Dr. Farid.

Mr. Farid. I agree it is a multi-stakeholder. We all have a responsibility here.

Mr. Soto. And if we were to tighten up rules on the courts, it would be great to hear, first starting with you, Dr. Farid, if limit it to injunctive relief, do you think that would be enough and whether or not there should be attorney's fees at stake?

Mr. Farid. Please understand I am not a policymaker, I am not a lawyer, I am a

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technologist. I am not the one who should be answering that question, with due respect.

Mr. Soto. Okay. Ms. Oyama and Mr. Huffman, would injunctive relief in the courts be enough to change certain behaviors, do you think?

Ms. Oyama. I think I just said courts do have the power of injunctive relief. I would want to echo the start businesses and startup voices where they do say that the framework has created certainty, and that is essential for their content moderation and their economic viability.

Mr. Soto. Thank you.

Mr. Huffman.

Mr. Huffman. Similar answer, sir. I would shudder to think what would happen if we, when we were smaller, or even now were on the receiving end of armies of tort lawyers.

Mr. Soto. Ms. Citron, I see you nodding quite a bit. Injunctive relief, attorney's fees, are these things we should be looking at?

Ms. Citron. So I just, as you say injunctive relief, all I can see is the First Amendment and prior restraint. So I think we need to be sort of careful the kinds of remedies that we think about. But law operates. If we allow law to operate, if people act unreasonably and recklessly, then I think the array of possibilities should be available.

Mr. Soto. The last thing, I want to talk a little bit about 230, Section 230, as far as being incorporated in our trade deals. I am from Orlando, the land where a fictional mouse and a fictional wizard are two of our greatest assets.

Ms. Peters, I know you talked a little bit about the issue of including 230 in trade deals. How would that be problematic for a region like ours where intellectual property

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is so critical?

Ms. Peters. It is problematic because it potentially is going to tie Congress' hands from reforming the bill down the line, and that is precisely why industry is pushing to have it inside the trade deals.

Ms. Oyama. There are 90 pages of copyright language in existing U.S. trade agreements. I think CDA 230 can just be treated the same if U.S. law doesn't bind Congress' hands at all.

Mr. Soto. So if we adjusted laws here, that would affect the trade deals, is your opinion then?

Ms. Oyama. There is no language in the trade deals that binds Congress' hands. Congress regularly has hearings on copyright, patent, pharmaceuticals, labor, climate, CDA 230. There is nothing in the trade agreement, the template language of U.S. law to create a U.S. framework when countries like China and Russia are developing their own frameworks for the internet, there is nothing in the current USMCA or the U.S.-Japan FTA that would limit your ability to later look at 230 and decide that it needs tweaks later on.

Mr. Soto. Thanks. I yield back.

Ms. Schakowsky. The gentleman yields back, and that concludes our period for questioning.

And now I seek unanimous consent to put into the record a letter from Create a Future with attachments, a letter from American Hotel and Lodging Association, a letter from Consumer Technology Association, a letter from Travel Technology Association, a white paper from Airbnb, a letter from Common Sense Media, a letter from Computer & Communications Industry Association, a letter from Representative Ed Case, a letter in support of the PLAN Act, a letter from the i2Coalition, a letter to the FCC from

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Representative Gianforte, a letter from TechFreedom, a letter from the Internet Association, a letter from the Wikimedia Foundation, a letter from the Motion Picture Association, an article from The Verge titled "Searching for Help," a statement from R Street.

Without objection, so ordered.

[The information follows:]

\*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

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Ms. Schakowsky. And let me thank our witnesses. I think this was a really useful hearing. I think those of you who have suggestions, more concrete ones than sometimes came up today, our committee would appreciate it very, very much. I am sure the joint committee would appreciate that as well, this joint hearing.

So I want to thank all of you so much for your thoughtful presentations and for the written testimony, which also often went way beyond what we were able to hear today.

And so I want to remind members that, pursuant to committee rules, they have 10 business days to submit additional questions for the record to be answered by witnesses who have appeared.

And I want to ask witnesses to please respond promptly to any such questions that you may receive.

And at this time the committees are adjourned. Thank you.

[Whereupon, at 1:11 p.m., the subcommittees were adjourned.]