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6 A COUNTRY IN CRISIS: HOW DISINFORMATION

7 ONLINE IS DIVIDING THE NATION

8 WEDNESDAY, JUNE 24, 2020

9 House of Representatives

10 Subcommittee on Communications and

11 Technology

12 joint with the

13 Subcommittee on Consumer Protection

14 and Commerce

15 Committee on Energy and Commerce

16 Washington, D.C.

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20 The subcommittees met, pursuant to call, at 11:32 a.m., via

21 Webex, Hon. Mike Doyle [chairman of the subcommittee on

22 Communications and Technology] and Hon. Janice Schakowsky

23 [chairwoman of the subcommittee on Consumer Protection and

24 Commerce] presiding.

25 Present from Subcommittee on Communications and Technology:

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26 Representatives Doyle, McNerney, Clarke, Veasey, Soto,
27 O'Halleran, Butterfield, Matsui, Welch, Lujan, Schrader,
28 Cardenas, Dingell, Pallone (ex officio), Latta, Shimkus,
29 Kinzinger, Bilirakis, Johnson, Long, Flores, Brooks, Walberg,
30 Gianforte, and Walden (ex officio).

31 Present from Subcommittee on Consumer Protection and
32 Commerce: Representatives Schakowsky, Castor, Veasey, Kelly,
33 O'Halleran, Cardenas, Blunt Rochester, Soto, Rush, Matsui,
34 McNerney, Dingell, Pallone (ex officio), Burgess, Latta, Guthrie,
35 Hudson, Carter, Gianforte, and Walden (ex officio).

36 Staff present: Billy Benjamin, System Administrator; Jeff
37 Carroll, Staff Director; Parul Desai, FCC Detailee; Lisa Goldman,
38 Senior Counsel; Waverly Gordon, Deputy Chief Counsel; Tiffany
39 Guarascio, Deputy Staff Director; Alex Hoehn-Saric, Chief
40 Counsel, Communications and Consumer Protection; Jerry Leverich,
41 Senior Counsel; Dan Miller, Jr. Professional Staff; Phil Murphy,
42 Policy Coordinator for CAT; Joe Orlando, Executive Assistant;
43 Kaitlyn Peel, Digital Director; Tim Robinson, Chief Counsel;
44 Chloe Rodriguez, Policy Analyst; Sydney Terry, Policy Coordinator
45 for CPC;

46 Nolan Ahern, Professional Staff, Health; Jennifer Barblan,
47 Minority Chief Counsel, O&I; Mike Bloomquist, Minority Staff
48 Director; S.K. Bowen, Minority Press Secretary; William
49 Clutterbuck, Minority Staff Assistant; Jerry Couri, Minority
50 Deputy Chief Counsel, Environment & Climate Change; Diane Cutler,

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51 Minority Detailee, O&I; Jordan Davis, Minority Senior Advisor;
52 Theresa Gambo, Minority Human Resources/Office Administrator;
53 Caleb Graff, Minority Professional Staff Member, Health; Tyler
54 Greenberg, Minority Staff Assistant; Brittany Havens, Minority
55 Professional Staff, O&I; Tiffany Haverly, Minority
56 Communications Director; Peter Kielty, Minority General Counsel;
57 Bijan Koochmaraie, Minority Deputy Chief Counsel, CPAC; Tim Kurth,
58 Minority Chief Counsel, C&T; Ryan Long, Minority Deputy Staff
59 Director; Mary Martin, Minority Chief Counsel, Energy &
60 Environment & Climate Change; Brandon Mooney, Minority Deputy
61 Chief Counsel, Energy; Kate O'Connor, Minority Chief Counsel,
62 C&T; James Paluskiewicz, Minority Chief Counsel, Health; Brannon
63 Rains, Minority Policy Analyst; Kristin Seum, Minority Counsel,
64 Health; Kristen Shatynski, Minority Professional Staff Member,
65 Health; Alan Slobodin, Minority Chief Investigative Counsel, O&I;
66 Peter Spencer, Minority Senior Professional Staff Member,
67 Environment & Climate Change; Natalie Sohn, Minority Counsel,
68 O&I; Evan Viau, Minority Professional Staff, C&T; and Everett
69 Winnick, Minority Director of Information Technology.

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70 Mr. Doyle. Okay. So the committee will now come to order.
71 Today, the Subcommittee on Communications and Technology and
72 the Subcommittee on Consumer Protections and Commerce are holding
73 a joint hearing entitled, "A Country in Crisis: How Disinformation
74 is Dividing the Nation."

75 Due to the COVID-19 public health emergency, today's hearing
76 is being held remotely. All members and witnesses will be
77 participating via videoconferencing.

78 As a part of our hearing, microphones will be set on mute
79 for the purpose of eliminating inadvertent background noise.

80 Members and witnesses, you will need to unmute your
81 microphone each time you wish to speak. Documents for the record
82 can be sent to Chloe Rodriguez at the email address we provided
83 to staff. All documents will be entered into the record at the
84 conclusion of the hearing.

85 The chair will now recognize himself for a five-minute
86 opening statement.

87 Good morning, and welcome to today's joint hearing on
88 disinformation and the crisis it is creating in our country and
89 for our democracy.

90 I want to thank our panel of witnesses for joining us
91 virtually today. While the committee has held several virtual
92 hearings so far, this is the first one I have chaired. So please
93 bear with me as we get through this.

94 The matter before the committee today is one of pressing

95 importance: the flood of disinformation online, principally
96 distributed by social media companies, and the dangerous and
97 divisive impact it is having on our nation as we endure the
98 COVID-19 epidemic.

99 Over 120,000 Americans have already lost their lives to this
100 virus and nearly 2.4 million Americans have been infected. Tens
101 of millions of people are out of work as we attempt to stop the
102 spread of this virus and prevent an even greater disaster.

103 In the midst of this historic crisis, we are also facing
104 a historic opportunity. Tens of millions of Americans are
105 calling for racial justice and systematic changes to end racism
106 and police brutality in the wake of the horrific murders of George
107 Floyd, Breonna Taylor, and countless other black Americans at
108 the hands of law enforcement.

109 The Black Lives Matter movement has resulted in protests
110 around the globe and online as people are taking to the streets,
111 social media to express their support for change.

112 But as we march for progress and grapple with this deadly
113 disease, the divisions in our country are growing. While our
114 nation has long been divided, today we see that much of this
115 division is driven by misinformation distributed and amplified
116 by social media companies, the largest among them being Facebook,
117 YouTube, and Twitter.

118 These platforms have become central to the daily lives of
119 so many around the globe and to the way people get their news,

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120 interact with each other, and engage in political discourse.

121 Our nation and the world are facing a heretofore
122 unprecedented tsunami of disinformation that threatens to
123 devastate our country and the world.

124 It has been driven by hostile foreign powers seeking to
125 weaken our democracy and divide our people, by those in our country
126 who seek to divide us for their own political gain, and by social
127 media companies themselves, who have put profits before people
128 as platforms have become awash in disinformation and their
129 business models have come to depend on these engaging and enraging
130 nature of these false truths.

131 When Congress enacted Section 230 of the Communications
132 Decency Act in 1996, this provision provided online companies
133 with a sword and a shield to address concerns about content
134 moderation and a website's liability for hosting third-party
135 content.

136 And while a number of websites have used 230 for years to
137 remove sexually explicit and overtly violent content, they have
138 failed to act to curtail the spread of disinformation.

139 Instead, they have built systems to spread it at scale and
140 to monetize the way it confirms our implicit biases. Everyone
141 likes to hear and read things that confirm what they think is
142 true, and these companies have made trillions of dollars by
143 feeding people what they want to hear.

144 As a result, these platforms have peddled lies about

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145 COVID-19, Black Lives Matter, voting by mail, and much, much more.

146 When companies have done the right thing and stepped up to
147 take down disinformation, they have been attacked by those who
148 have benefitted from it. Recently, Twitter labeled a number of
149 tweets by President Trump as inaccurate, abusive, and glorifying
150 violence.

151 In response, President Trump issued an executive order
152 threatening all social media companies. The Department of
153 Justice has issued similarly thuggish proposals as well.

154 The intent of these actions is clear -- to bully social media
155 companies into inaction. Social media companies need to step
156 up to protect our civil rights, our human rights, and human lives,
157 not to sit on the sideline as the nation drowns in a sea of
158 disinformation.

159 Make no mistake, the future of our democracy is at stake
160 and the status quo is unacceptable.

161 While Section 230 has long provided online companies the
162 flexibility and the liability protections they need to innovate
163 and to connect people from around the world, it has become clear
164 that reform is necessary if we want to stem the tide of
165 disinformation rolling over our country.

166 That concludes my opening statement, and it now gives me
167 great pleasure to recognize my good friend, Mr. Latta, ranking
168 member for the Subcommittee on Communications and Technology for
169 five minutes for his opening statement.

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170 Mr. Latta. Well, thank you, Mr. Chairman, and thank you
171 very much for holding today's hearing on disinformation online.

172 I also want to thank our witnesses for joining us today.

173 We are living in a time when Americans increasingly rely
174 on the internet in their daily lives, and while our nation is
175 battling the coronavirus having access to accurate information
176 can mean the difference between life and death.

177 But as we all know, not everything we see and read online
178 can be taken as fact due to inaccuracies or outright lies. I
179 have some folks that have told me that everything on the internet
180 is true because you can't put anything on the internet that
181 wouldn't be true. So that is what some people were doing.

182 To date, companies have worked to police their platforms
183 to remove harmful or inaccurate information online. In fact,
184 Congress enacted Section 230 of the Communications Decency Act
185 to allow internet companies to do just that.

186 The law was intended to encourage internet platforms than
187 interactive computer services like CompuServe and American Online
188 to proactively take down offensive content without having the
189 fear of being held liable for doing the right thing.

190 Hateful and racist comments should have no place in our
191 society or on our platforms, and Section 230 provides a tool for
192 companies to make sure this doesn't happen.

193 And while some companies use this shield for its intended
194 purpose, it is concerning that we are seeing other abuse of Section

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195 230 after being pressured by activist employees or advertisers
196 to make Good Samaritan policies intended to fit their own
197 political agenda.

198 Many tech companies have benefitted and grown because they
199 are afforded CDA 230 protections. These protections have allowed
200 them to become the true gatekeepers to the internet. But too
201 often, we see that they don't want to take responsibility for
202 the content within those gates.

203 Let me be clear. I am not advocating that Congress repeal
204 the law nor am I advocating for Congress to consider niche carve
205 outs that could lead to a patchwork of applicability of the law.

206 Section 230 was enacted for a reason. It is unfortunate,
207 however, that the courts have such a broad interpretation of
208 Section 230, simply granting broad liability protection without
209 platforms having to demonstrate that they are doing, and I quote,
210 "everything possible."

211 Numerous platforms have hidden behind Section 230 to avoid
212 litigation without having to take responsibility. Not only are
213 Good Samaritans sometimes being selective in taking down harmful
214 or illegal activity, but Section 230 has been interpreted so
215 broadly that bad Samaritans can skate by without accountability.

216 Freedom of speech is a fundamental right upon which our
217 democracy is built and we must make sure these companies are not
218 policing the free flow of speech, especially when it comes to
219 political discussions, as they continue to operate online

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220 platforms.

221 While we are talking about private companies, many of the
222 concerns I have outlined here today could simply be addressed
223 if these companies began to equitably and consistently enforce
224 their terms of service.

225 If companies have the time and resources to make the
226 difficult complex decisions over moderating conservative speech,
227 then surely they can make the easy decisions when it comes to
228 taking down illegal, hate, or racist content on their platforms.

229 I hope reports of political bias among the large internet
230 platforms are not an indication of their prioritization of
231 resources. If so, then we should consider congressional scrutiny
232 over how Section 230 is being used in the marketplace.

233 So I will say it again. I do not believe repealing Section
234 230 is the answer. But I do believe these companies could need
235 more oversight as to how they are making certain decisions related
236 to their content moderation practices, what they choose to censor
237 and what they don't.

238 We should make every effort to ensure that companies are
239 using the sword provided by Section 230 to take down offensive
240 and lewd content but that they keep their power in check when
241 it comes to censoring political speech.

242 Again, terms of services should be enforced equitably and
243 consistently. I look forward to hearing from today's witnesses,
244 and Mr. Chairman, I yield back.

245 Mr. Doyle. Okay. I thank the gentleman.

246 The chair now recognizes Ms. Schakowsky, chairwoman of the
247 Subcommittee on Consumer Protection and Commerce, for five
248 minutes for her opening statement.

249 Jan, you need to unmute if you haven't.

250 Ms. Schakowsky. Okay. I do that all the time. Sorry.

251 Thank you, Chairman Doyle. I am so glad to be doing a joint
252 hearing with you, and I want to thank our distinguished panel
253 for joining us today.

254 Last fall, Chairman Doyle and I held a joint hearing on
255 Section 230 of the Communications Decency Act, and subsequently
256 my subcommittee held a hearing on unsafe products and fake reviews
257 found online.

258 At both hearings, industry representatives came and
259 testified. Big Tech was here, and we heard that content
260 moderation and consumer protection were really hard and that
261 industry could always do better.

262 And they made promises, but they discouraged congressional
263 action. I think they may have even apologized, as Big Tech
264 typically does when it appears before this committee.

265 Fast forward to six months later and add a global health
266 pandemic and nationwide protests against policies of brutal and
267 racial inequality. And as we will hear today, it is an
268 understatement to say that industry could still be doing better.

269 The harms associated with misinformation and disinformation

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270 continue to fall disproportionately on communities of color, who
271 already suffer worse outcomes from COVID-19.

272 And at the same time, the president himself is continually
273 spreading dangerous disinformation that Big Tech is all too eager
274 to promote.

275 No matter what the absolutists say about Section 230, it
276 is not only about free speech and content moderation. If it were,
277 our conversation today would be very different.

278 Instead, Big Tech uses it as a shield to protect itself from
279 liability when it fails to protect consumers from harm and from
280 harmful public health -- or harms public health, and use it as
281 a sword to intimidate cities and states when they consider
282 legislation, as Airbnb did in 2016 when New York City was
283 considering regulating its online rental market for private
284 homes.

285 The truth is Section 230 protects business models and the
286 generation -- and generates prolific scams, fake news, fake
287 reviews, and unsafe, counterfeit, and stolen products.

288 This was never the intent, and since both courts and the
289 industry refuse to change it, Congress must do it. But we must
290 do it in a responsible way.

291 The president's recent actions are designed to kneecap
292 platforms that fact check him and engage in -- checking the time
293 here -- engage in what he claims is bias against conservative
294 views.

295 Let me be clear. The president is using his position to
296 chill speech and that is just wrong. We must encourage content
297 moderation that fosters a safer and healthier online world.

298 And don't be fooled by made-up claims of bias against
299 conservatives. Today, it seems there is less of a bias against
300 conservatives and, rather, a bias for conservatives.

301 On June 19th, nine of the 10 top-performing political pages
302 on Facebook were conservative pages, including Donald Trump,
303 Donald Trump for President, Ben Shapiro, Breitbart and Sean
304 Hannity.

305 And as the New York Times reported over the weekend, Facebook
306 in particular seems to enjoy a cozy relationship with the Trump
307 administration, aided by Facebook's loyal Trump supporters, Joel
308 Kaplan and Peter Thiel.

309 I hope that Mr. Kaplan and Mr. Thiel will soon make it before
310 Congress, make themselves available so that we can ask questions
311 about what role they play.

312 And I am just so anxious to hear about -- hear from our
313 witnesses and I will yield back at this time.

314 Thank you, Mr. Chairman.

315 Mr. Doyle. Thank you. The gentlelady yields back her time.

316 The chair now recognizes -- Mrs. Rodgers has yielded her
317 time, I believe, to Mr. Guthrie.

318 So, Mr. Guthrie, you are recognized for five minutes.

319 Mr. Guthrie. Thank you, Mr. Chair.

320 I want to thank the chairs and the ranking members for holding
321 this hearing and our distinguished panelists for being here.

322 The coronavirus outbreak has shown us the true strength of
323 American technology. As much of our world became digital, we
324 saw innovation across the board, from doctors switching to
325 telehealth services to educators teaching students from afar,
326 to friends and family connecting online, more so than ever before.

327 Through this explosion of innovation, we have seen the best
328 in people, companies and individuals stepping up to adapt to our
329 new world and neighbors helping neighbors as we all go through
330 this together.

331 Sadly, it has also brought out the worst in some people.

332 Though social media and online websites can be used to connect
333 us with each other and to information, unfortunately, bad actors
334 can also weaponize these platforms to further spread
335 disinformation, putting Americans' health and security at risk.

336 Social media platforms have responded to disinformation
337 campaigns differently. Some have taken a more active approach
338 to monitoring and removing such content while other have allowed
339 disinformation, misinformation, and offensive and intolerable
340 comments to fester on their sites unchecked.

341 In either case, I think we can all agree that better
342 transparency regarding how these internal guidelines are
343 determined as well as the mechanisms about which such content
344 is removed and the appeals processes they have in place is needed.

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345 We must also ensure that social media companies are applying
346 these standards fairly and not just labeling a differing opinion
347 as disinformation.

348 During this public health crisis, the Federal Trade
349 Commission has continued its work protecting consumers, providing
350 guidance to businesses and protecting competition in the
351 marketplace throughout the pandemic.

352 They have issued dozens of warnings to individuals and
353 entities marketing therapies and products that claim to prevent
354 or treat COVID-19. Further, they have disseminated information
355 to consumers on how to avoid such scams and verify information
356 they come across online, which I have shared with my constituents.

357 This information will continue to be vital as we navigate
358 this unprecedented time.

359 Looking forward, I believe that emerging technology has the
360 potential to be useful in combating illicit content online and
361 putting a stop to these bad actors.

362 That is why I recently introduced the Countering Online Harms
363 Act, which would direct the Federal Trade Commission to conduct
364 a study on how artificial intelligence may be used to identify
365 and remove harmful online content, such as disinformation
366 campaigns, deep fakes, counterfeit products, and other deceptive
367 and fraudulent content that is intended to scam or do harm.

368 Further, my bill would require the FTC to submit a subsequent
369 report to Congress with recommendations on how to implement

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370 solutions with AI to address those issues and recommendations
371 for potential legislation.

372 Throughout the coronavirus pandemic, we have tapped into
373 America's innovative potential to solve many of our new problems
374 and I hope the Countering Online Harms Act will build on this
375 innovation to help protect American consumers as more and more
376 of our lives are conducted online.

377 Thank you to all the witnesses for your participation today.
378 I look forward to hearing your testimony.

379 Mr. Chairman, I would like to submit for the record Ranking
380 Member McMorris Rodgers' opening statement.

381 And thank you again. I yield back. I yield back.

382 [The information follows:]

383

384 *****COMMITTEE INSERT*****

385 Mr. Doyle. The gentleman yields back. The chair now --
386 Mr. Pallone has yielded his time equally between Mr. Butterfield
387 and Ms. Blunt Rochester.

388 So, Mr. Butterfield, you can start for the 22 minutes, and
389 then yield to Ms. Blunt Rochester.

390 Mr. Butterfield. Thank you so much, Mr. Chairman, for
391 convening this hearing today on the role that social media and
392 other online platforms in spreading disinformation.

393 Mr. Chairman, the ability for virtually anyone to post
394 thoughts and pictures and videos to social media has shed many
395 of the systemic injustices and disparities that exist both in
396 our country and around the world.

397 However, we have also witnessed those same platforms used
398 by domestic and foreign actors to undermine our democracy
399 through disinformation campaigns, making for the easy spread of
400 false narratives that undermine the public's trust in
401 institutions like the press and our governments.

402 A disturbing pattern, Mr. Chairman, has emerged online,
403 revealing that African Americans and other racial minorities are
404 consistently targeted by those seeking to promote disinformation.

405
406 It is now well established that in 2016 foreign actors
407 targeted the African-American community by way of social media
408 in efforts to keep African Americans from voting in the
409 presidential election. That is a fact.

410 More recently, mass protests following the death of George
411 Floyd have often been wrongfully categorized on social media as
412 violent by those seeking to undermine their purpose.

413 Further, in the midst of a pandemic that disproportionately
414 impacts communities of color, falsehoods have been spread from
415 all -- from our own president about the virus's treatment and
416 testing and origins, deepening already existing divides and
417 putting the public's health at considerable risk.

418 Such attempts at disenfranchisement and deception have no
419 place, no place, in a country where so many have fought bitterly
420 and at such great cost to ensure that every American voice is
421 heard at the ballot box and in the public square, which has
422 increasingly moved online.

423 In order to achieve meaningful progress in the fight against
424 disinformation online, it will take the full cooperation of
425 policymakers, industry stakeholders, and regulators to achieve
426 our goal of an equitable online landscape that fosters healthy
427 discourse while also promoting and protecting the civil rights
428 of all users.

429 That is what Ms. Schakowsky was talking about a few minutes
430 ago, and I want to completely associate myself with her words.

431 At this time, Mr. Chairman, as you mentioned in the outset,
432 I will yield the balance of my time for my friend from the state
433 of Delaware, Congresswoman Lisa Blunt Rochester.

434 Ms. Blunt Rochester. Thank you, Mr. Butterfield, for

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435 yielding.

436 Last October, the Energy and Commerce Committee considered
437 whether social media companies have done enough to control hate
438 speech, voter suppression activities, and blatantly false
439 information on their platforms.

440 Less than a year later, we are faced with a pandemic, record
441 level unemployment, and Americans across the country demanding
442 real action now on police violence and racial inequality.

443 Yet, social media companies have failed to prevent white
444 nationalists, scammers, and other opportunists from using their
445 platforms to exacerbate these crises.

446 Notably, the largest platform, Facebook, stands out as the
447 most irresponsible platform. 2020 is a defining year for our
448 democracy. Facebook and the other platforms have a
449 responsibility to the country to get their act together and to
450 be a part of the solution and not the problem.

451 Thank you, and I yield back.

452 [Pause.]

453 Ms. Blunt Rochester. Mr. Chairman?

454 Mr. Farid. Mr. Chairman, you're muted. We can't hear you.

455 Mr. Doyle. I am sorry.

456 At this time, the chair will recognize Mrs. Brooks, who is
457 being yielded Mr. Walden's time.

458 Mrs. Brooks, you are recognized for five minutes.

459 Mrs. Brooks. Thank you, Mr. Chairman.

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460 Ranking Member Walden is at Rules Committee so I have been
461 asked to read his statement.

462 Thank you, Mr. Chairman. I welcome and thank all our
463 witnesses for joining us today to discuss online misinformation.

464
465 The internet is both a tool for good and evil. It allows
466 Americans to work and learn from home, gives us unlimited access
467 to information, helps connect us to our loved ones, and
468 strengthens our economy.

469 The United States is a global leader in innovation and home
470 to the most advanced technology companies in the world. The
471 internet has also empowered bad actors to promote online scams,
472 post harmful and offensive content, and globally disseminate
473 disinformation for free.

474 Often, social media posts have become a cancer on civility,
475 literally destroying reputations and lives with one click. It
476 is revolting to see what some people post online, something I
477 can tell you from personal experience in this public position.

478
479 But we all know it is hard to regulate speech, especially
480 in a democracy and with protections we are afforded under the
481 First Amendment.

482 We also know there are boundaries and limits. But over the
483 course of our history, we have never had so much power to regulate
484 speech concentrated in so few in the private sector and with the

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485 broad immunity protection they have under Section 230.

486 As we battle COVID-19, access to factual information is more
487 important now than ever. However, we still see misinformation
488 spread on platforms.

489 I know the Trump administration has aggressively gone after
490 bad actors. But as soon as you take down one cyber profile,
491 another one pops up. It is a global battle.

492 We are in the midst of a national fight for equality and
493 justice. At the same time, we see bigots post unacceptable,
494 racist, and offensive comments online. These comments have no
495 place in our society.

496 Congress expects internet companies to monitor their
497 platforms and take down false, misleading, and harmful content.

498 That is why Congress enacted Section 230 of the Communications
499 Decency Act, which provides liability protection to companies
500 that take down content on their platforms.

501 Last fall, this committee held a hearing to reexamine Section
502 230. I said then and will say again, many concerns can be
503 addressed if these companies simply do what they say they will
504 do: enforce their terms of service.

505 However, recent actions taken by these companies trouble
506 me. Twitter recently enacted new policies that seemingly target
507 President Trump. Meanwhile, tweets that actually advocate
508 violence are not flagged. Questions remain about who makes these
509 decisions.

510 Google took action against the Federalist for allegedly
511 violating Google's ad policy in comment sections, not for the
512 content of its articles, as NBC initially claimed.

513 Significant questions persist as to whether Google followed
514 their procedures and notified the Federalist directly.
515 Moreover, why was this publication targeted and not others?

516 I think I can speak for everyone on this committee when I
517 say we do not support harmful or racist rhetoric or disinformation
518 online. We expect these companies to do their best to flag or
519 remove offensive and misleading content.

520 But we also expect these immensely powerful platforms to
521 follow their own processes for notifying users when they have
522 potentially violated those policies and to enforce policies
523 equitably. But that does not appear to have happened of late.

524 That is why I prepared legislation that will mandate more
525 transparency from online platforms about their content practices.

526 This would require these companies to file reports with the FTC
527 so it is clear whether they are complying with their own terms
528 of service and to bring transparency to their appeal process.

529 I hope this can be bipartisan legislation. This is a
530 straightforward bill that only impacts companies with revenues
531 over a billion dollars. So I hardly think it will crash the
532 internet.

533 I realize, given a mix of human review and artificial
534 intelligence, these platforms are not always going to get it

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535 right. But they absolutely must be more transparent. The power
536 to regulate speech in America is cloaked more and more in secret
537 algorithms and centralized in the hands of a powerful few in the
538 private sector. We have never needed transparency and
539 accountability more. Freedom-loving Americans have far too much
540 at stake for us to let internet companies go unchecked.

541 Thank you, and I yield back.

542 Mr. Doyle. The gentlelady yields back, and I want to thank
543 her.

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

545 Ms. Brandi Collins-Dexter, senior campaign director at Color
546 of Change; Dr. Hany Farid, professor, University of California
547 Berkeley; Mr. Neil Fried, former chief counsel for communications
548 and technology on the Energy and Commerce Committee and principal
549 at DigitalFrontiers Advocacy; and Mr. Spencer Overton, president
550 of the Joint Center for Political and Economic Studies, and
551 professor of law at George Washington University.

552 We want to thank all of our witnesses for joining us today.

553 We look forward to your testimony.

554 At this time, the chair will recognize each witness for five
555 minutes to provide their opening statement, and Ms.
556 Collins-Dexter, you are now recognized for five minutes.

557 And if you unmute.

558 [Pause.]

559 Mr. Doyle. Ms. Collins-Dexter?

560

Ms. Collins-Dexter. Hi.

561

Mr. Doyle. You are recognized for five minutes.

562 STATEMENTS OF BRANDI COLLINS-DEXTER, SENIOR CAMPAIGN DIRECTOR,
563 COLOR OF CHANGE; HANY FARID, PROFESSOR, UNIVERSITY OF CALIFORNIA,
564 BERKELEY; NEIL FRIED, FORMER CHIEF COUNSEL FOR COMMUNICATIONS
565 AND TECHNOLOGY, ENERGY AND COMMERCE COMMITTEE, PRINCIPAL, DIGITAL
566 FRONTIERS ADVOCACY; SPENCER OVERTON, PRESIDENT, JOINT CENTER FOR
567 POLITICAL AND ECONOMIC STUDIES, PROFESSOR OF LAW, GEORGE
568 WASHINGTON UNIVERSITY

569

570 STATEMENT OF BRANDI COLLINS-DEXTER

571 Ms. Collins-Dexter. Thank you.

572 Good day, Chairman Pallone, Ranking Member Walden, Chairman
573 Doyle, Ranking Member Latta, Chair Schakowsky, Ranking Member
574 McMorris Rodgers, and members of the subcommittee.

575 I am Brandi Collins-Dexter, senior campaign director at
576 Color of Change and a visiting fellow at Harvard Kennedy
577 Shorenstein Center, working on documenting racialized
578 disinformation campaigns.

579 For black communities, uncertainty is driven by distrust
580 of mainstream media and a history of trauma from interactions
581 with powerful institutions ranging from Madison to law
582 enforcement to federal, state, and local governments.

583 Many of us have turned to social media as our church, our
584 office water cooler, and our political home. But unlike a
585 physical space like a church or office, online you often don't
586 know who is standing next to you, who is giving the sermon, or

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587 how your data and information may be weaponized against you.

588 While many corporate actors claim they are protecting free
589 speech, this is an illusion. Every day companies make a choice
590 about what's allowed and what's not.

591 When companies say they are not willing to remove certain
592 things, what they are really saying is that addressing white
593 nationalism, disinformation, and anti-blackness simply don't
594 rise to a level of urgency for them.

595 Tech companies have routinely failed to uphold societal
596 values like transparency, accountability, and fairness. We have
597 seen misinformation about COVID-19 that endangers black lives.

598 Back in February, Color of Change alerted Twitter to COVID-19
599 misinformation that was spreading in the black community. The
600 company only revised standards to address the dangers of
601 misinformation after increased pressure and evidence gathered
602 by Color of Change and other groups.

603 Other tech companies have been slower to respond. A
604 pandemic video on YouTube suggesting that the pandemic is a false
605 flag to force mandatory vaccines and microchips had 4.3 million
606 views on YouTube and 930,000 engagements on Facebook.

607 Every week, I sit on Zoom with my mom while she recounts
608 various people in our family and friend network who have passed
609 from COVID-related issues. So I feel acutely the danger from
610 these type of lies.

611 At Color of Change, we have collected hundreds and hundreds

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612 of complaints from our members about censorship, harassment, and
613 vile racial threats that they have received on Facebook.

614 On the platform we often see conspiracy theories coupled
615 with threats and calls to violence. The most popular of those
616 conspiracy theories are those involving anti-Semitic tropes about
617 George Soros and black activist groups.

618 The idea that black people are puppets has been played up
619 by white supremacists like David Duke to undermine the credibility
620 and impact the black organizations, but more -- beyond
621 credibility, it puts our lives in physical danger.

622 Members of Congress, please move quickly to fix our democracy
623 before it is irretrievably broken. I urge you to convene a series
624 of civil rights-focused hearings with high-level executives from
625 all major companies with a particular focus on those trafficking
626 in disinformation.

627 Restore funding for the Office of Technology Assessment in
628 order to help Congress tackle issues such as data privacy, tech
629 election protection, and set up infrastructure that can
630 facilitate deeper investment in U.S. space innovation and
631 entrepreneurship to combat disinformation and other data-hostile
632 practices.

633 Ensure that regulators have every power at their disposal
634 to ensure the safety of consumers and users on tech platforms.

635 We support a consumer watchdog agency that is resourced to ensure
636 we are all able to have control and protection of our data and

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637 that there is a competitive digital marketplace.

638 And finally, Congress should affirmatively empower and
639 resource the Federal Trade Commission to enforce antitrust laws
640 against technology oligarchs.

641 The sheer amount of data and information amassed by tech
642 companies, the inability of companies like Facebook and Google
643 to be regulated at scale, and mistakes online, in the voting booth,
644 and on our streets require actionable steps towards breaking up
645 companies.

646 Congress is charged with making decisions, policies, and
647 laws that make real our joint aspiration for a more perfect union
648 that establishes justice, ensures domestic tranquility, provides
649 for the common defense, and promotes the general welfare so that
650 the blessings of liberty can ring true for all of us.

651 This cannot happen when democracy is corrupted.
652 Uncontrolled tech companies pose significant threats to democracy
653 and freedom in the U.S. and around the world.

654 We must move with collective urgency to ensure that our data
655 and physical bodies are protected on and offline.

656 Thank you so much for your time.

657 [The prepared statement of Ms. Collins-Dexter follows:]

658

659 *****COMMITTEE INSERT*****

660 Mr. Doyle. Thank you for your testimony.

661 The chair now recognizes Dr. Farid. You are recognized for

662 five minutes.

663 STATEMENT OF HANY FARID

664

665 Mr. Farid. Chairs, Ranking Members, and members of both
666 subcommittees. Thanks for the opportunity to speak with you
667 today on these incredibly important issues.

668 Technology and the internet have had a remarkable impact
669 on our lives and society. Many educational, entertaining, and
670 inspiring things have emerged in the past two decades in
671 innovation.

672 But at the same time, many horrific things have emerged.
673 A massive proliferation of child sexual abuse material. The
674 spread and radicalization of domestic and international
675 terrorists.

676 The distribution of illegal and deadly drugs. The
677 proliferation of mis- and disinformation campaigns designed to
678 sow civil unrest, incite violence, and disrupt democratic
679 elections.

680 The proliferation of dangerous, hateful, and deadly
681 conspiracy theories. The routine harassment of women and
682 underrepresented groups in the forms of threats of sexual violence
683 and revenge in non-consensual pornography, small- to large-scale
684 fraud, and spectacular failures to protect personal and sensitive
685 data.

686 How, in 20 years, did we go from the promise of the internet
687 to democratize access to knowledge and make the world more

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688 understanding and enlightened to this litany of daily horrors?

689 Due to a combination of naivete, ideology, wilful ignorance,
690 and a mentality of growth at all costs, the titans of tech have
691 simply failed to install proper safeguards on their services.

692

693 We can and we must do better when it comes to contending
694 with some of the most violent, harmful, dangerous, hateful, and
695 fraudulent content online.

696 We can and we must do better when it comes to contending
697 with the misinformation apocalypse that has emerged over the past
698 few years.

699 The COVID global pandemic, for example, has been an ideal
700 breeding ground for online misinformation. Social media traffic
701 has reached an all-time record as people are forced to remain
702 at home, often idle, anxious, and hungry for information.

703 The resulting spike in COVID-related misinformation is of
704 grave concern to health professionals. The World Health
705 Organization, for example, has listed this infodemic in its top
706 priorities to contain the pandemic.

707 Over the past few months, we have measured a troublingly
708 wide-reaching belief in COVID-related misinformation that is
709 highly partisan and is more prevalent in those that consume news
710 primarily on social media.

711 We find that the amount of misinformation believed by those
712 with social media as their main source of news is 1.4 times greater

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713 than others, and the amount of misinformation believed by those
714 on the right of the political spectrum is two times greater than
715 those on the left.

716 Even prior to the current pandemic, the FBI announced last
717 year that fringe conspiracy theories are a domestic terrorist
718 threat due to the increasing number of violent incidents motivated
719 by such beliefs.

720 At the same time, YouTube continues to knowingly and actively
721 promote fringe and dangerous conspiracies. At its peak in late
722 2018, we measured that almost 10 percent of recommended videos
723 on YouTube's informational and news channels were conspiratorial
724 in nature.

725 Because 70 percent of all watched videos on YouTube are
726 recommended by YouTube, their recommendation algorithm is
727 responsible for the spread of conspiracies and misinformation.

728 Now, Facebook's Mark Zuckerberg has tried to frame the issue
729 of reining in mis- and disinformation as not wanting to be the
730 arbiter of truth. This entirely misses the point.

731 The point is not about only about truth or falsehood but
732 about algorithmic amplification. The point is that social media
733 decides what is relevant by recommending it every day to their
734 billions of users.

735 The point is that social has learned that outrageous,
736 divisive, conspiratorial content increases engagement. The
737 point is that online content providers could simply decide that

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738 they value trusted information over untrusted information,
739 respectful over hateful, and unifying over divisive and, in turn,
740 fundamentally change the divisiveness fuelling and
741 misinformation distributing machine that is social media today.

742 If advertisers that are the fuel behind social media took
743 a stand against online abuses, they could withhold their
744 advertising dollars to insist on reach change.

745 Standing in the way of this much-needed change is a lack
746 of corporate leadership, a lack of competition, a lack of
747 regulatory oversight, and a lack of education among the general
748 public.

749 Responsibility, therefore, to regain civility and trust
750 online falls on the private sector, government regulators, and
751 we, the general public.

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

753 [The prepared statement of Mr. Farid follows:]

754

755 *****COMMITTEE INSERT*****

756 Mr. Doyle. I thank the gentleman for his testimony.

757 The chair now recognizes Neil Fried. Neil, welcome back
758 to the committee. Always good to see one of our own back for
759 a visit.

760 You are now recognized for five minutes.

761 STATEMENT OF NEIL FRIED

762

763 Mr. Fried. Thank you, Mr. Chairman.

764 Chairman Pallone, Ranking Member Walden, Chairman Doyle,
765 Ranking Member Latta, Chair Schakowsky, Ranking Member McMorris
766 Rodgers, and members of the committee, thank you for inviting
767 me to testify.

768 After 10 years as communications and technology counsel to
769 this committee, it is an honor to be on this side of the witness
770 table, albeit virtually.

771 I have been involved in Section 230 debates for a while now,
772 since 1999, and welcome the opportunity to share my views. Those
773 views are my own. I have no client on Section 230 matters.

774 I come not to bury Section 230 but to improve it. I recommend
775 restoring a duty of care online by requiring platforms to take
776 reasonable good-faith steps to prevent illicit use of their
777 services as a condition for receiving Section 230 protection.

778 This would better protect users as well as address
779 competition concerns and it would do so without regulating the
780 internet, without taking away the platforms' content moderation
781 safe harbor, and without raising government censorship issues.

782 Growing frustration with the internet stems in large part
783 from the lack of accountability of platforms as well as online
784 intermediaries such as domain name providers and reverse proxy
785 services.

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786 Increased transparency would help, as would legislation
787 restoring access to the WHOIS information needed to catch illicit
788 actors. Fully realizing the internet we all aspire to, however,
789 will ultimately require recalibrating Section 230.

790 So long as platforms can facilitate illicit activity with
791 impunity, we are fighting a losing battle. Despite claims that
792 Section 230 encourages content moderation, it actually does the
793 opposite. Congress gave platforms a content liability shield
794 so they would wield a content moderation sword.

795 Although Section 230(c)(2) creates a safe harbor for content
796 moderation, Section 230(c)(1) eliminates liability even if the
797 platforms don't moderate content. In other words, they reap the
798 benefits of the shield even when they drop the sword.

799 Thus, while Section 230(c) is called the Good Samaritan
800 provision, it still protects platforms when they behave like Bad
801 Samaritans, profiting from advertising around unlawful behavior
802 while sitting on their hands without legal consequence.

803 This is aggravating illicit activity online, everything from
804 fraud to the spread of child pornography. Ordinarily, a business
805 has a duty of care to prevent people from using its services to
806 harm others.

807 Section 230, however, eliminates this duty, even when the
808 platforms negligently, recklessly, or willfully disregard
809 illicit activity. This puts the internet users in harm's way
810 and often leaves victims without a remedy in light of the anonymous

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811 nature of the internet.

812 The platforms say they are taking responsible steps to curb
813 illicit activity. That may be true in some cases. But why should
814 their judgment be beyond traditional scrutiny?

815 Section 230 also affects competition by letting platforms
816 avoid the ordinary business costs of preventing harm. This gives
817 them an unfair advantage over their competitors.

818 It can grow more recklessly in both scale and scope, which
819 also gives them market power to negotiate aggressive terms in
820 their favor. It can generate profit from an advertising around
821 illicit activity and they can ignore harms that their users cause
822 their competitors.

823 One way to preserve the benefits of Section 230 while fixing
824 its harms would be to restore a duty of care. This could be
825 achieved by requiring platforms to take reasonable good-faith
826 steps to curb illicit activity as a condition of receiving
827 protection.

828 Doing so would mean platforms do not enjoy protection when
829 they negligently, recklessly, or knowingly facilitate illicit
830 activity. Such a solution also avoids harms that critics
831 attribute to Section 230 reform.

832 First, it preserves the content moderation safe harbor the
833 platforms say they need to continue carrying user-generated
834 content.

835 Second, it requires no new regulation of the internet.

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836 Platforms would still have discretion over their business models
837 on the front end but would appropriately be held accountable on
838 the back end if they used that discretion poorly.

839 That potential back end accountability would prompt
840 responsibility by design.

841 Third, it doesn't rely on government-determined content
842 rules, avoiding First Amendment claims.

843 Fourth, any evaluation of reasonableness will factor in the
844 resources available to a platform, ensuring smaller platforms
845 are not unreasonably burdened as they try to grow.

846 In the meantime, the U.S. should refrain from including
847 Section 230 type language in trade deals. To do otherwise would
848 export the harms we are experiencing here to foreign citizens
849 and to U.S. companies abroad, and because the internet is global,
850 lax standards of fraud also harm U.S. citizens and businesses
851 here.

852 I thank the committee again for providing me the opportunity
853 to appear today and welcome any questions.

854 [The prepared statement of Mr. Fried follows:]

855

856 *****COMMITTEE INSERT*****

857

Mr. Doyle. Thank you, Mr. Fried.

858

The chair now recognizes Mr. Overton for five minutes.

859 STATEMENT OF SPENCER OVERTON

860

861 Mr. Overton. Thank you very much.

862 Chairs, Ranking Members, and members of the committee, I
863 thank you for inviting me to testify.

864 My name is Spencer Overton. I am the president of the Joint
865 Center for Political and Economic Studies, which was founded in
866 1970 and is America's black think tank.

867 I am also a tenured law professor at GW, specializing in
868 voting rights, and I have recently published academic research
869 on voter suppression through social media.

870 Disinformation on social media presents a real danger to
871 democracy. Both domestic and foreign actors use disinformation
872 to divide Americans along racial lines. They use data and
873 psychology to play on people's deepest fears and create an us
874 versus them discourse.

875 According to a recent Gallup Knight Foundation survey, 81
876 percent of Americans believe that social media companies should
877 never allow intentionally misleading information on elections
878 and political issues. Section 230 clearly gives social media
879 companies authority to remove disinformation and they should use
880 that authority to do a better job at stopping disinformation.

881 So some social media companies will say they don't remove
882 disinformation because they want to protect speech or be viewpoint
883 neutral. But the harms that result are now neutral for

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884 communities of color.

885 For example, in 2016, you remember several Facebook,
886 Instagram, Twitter, and YouTube accounts looked like they were
887 African American operated but in fact they were operated by the
888 Russian Internet Research Agency.

889 At first, the fake accounts built trust by showcasing black
890 achievements. Later, they started posting on police violence
891 and other structural inequalities. Then, near Election Day,
892 after they had built a large following with fake accounts, urged
893 black voters to protest by boycotting the election and not voting.

894 Now, we don't know how many black voters stayed home because
895 of this disinformation. But we do know that 2016 marked the most
896 significant decline in black voter turnout on record.

897 Even though the Russians infiltrated different groups, you
898 know, a variety of groups -- conservative, liberal, Second
899 Amendment, LGBT, Latino, policing, Muslim American groups -- even
900 though they did all that, this harm was not neutral for black
901 communities.

902 For example, while black people make up just 13 percent of
903 the U.S. population, black audiences accounted for over 38 percent
904 of the Facebook ads purchased by the Russians and almost half
905 of the user clicks.

906 Also, the Russian scheme discouraged voting among African
907 Americans, right, but not those other groups. It is not neutral
908 for our nation's most valuable companies to profit off of

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909 discrimination against historically marginalized communities.

910 Now, recently, President Trump signed an executive order
911 that attempted to increase the legal liability for social media
912 companies that moderated objectionable content by President Trump
913 and his followers.

914 This type of retaliation discourages social media companies
915 from stopping disinformation and allows for more disinformation
916 that divides Americans.

917 Although President Trump's executive order is problematic,
918 right, the status quo, just clearly it is not working. The types
919 of disinformation and voter suppression schemes we saw in 2016
920 are continuing in 2020.

921 Facebook has even argued that federal civil rights laws don't
922 apply to Facebook. Even in the aftermath of the killing of George
923 Floyd, there exists a real question about whether social media
924 companies will address their own systemic shortcomings and fully
925 embrace civil rights principles.

926 I hope that civil right -- that social media companies will
927 fully adopt these civil rights principles and use their existing
928 legal authority to prevent disinformation and voter suppression.

929 If legal reforms are needed, however, these debates should
930 occur in Congress and should include the voices of communities
931 of color who have been disproportionately harmed by targeted voter
932 suppression and other disinformation campaigns.

933 Thank you, and I look forward to our discussion today.

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934

[The prepared statement of Mr. Overton follows:]

935

936

*****COMMITTEE INSERT*****

937 Mr. Doyle. Thank you very much. I want to thank all the
938 panellists for their testimony, and I will note for the record
939 that they all were able to do it under five minutes.

940 So we, on the committee, will endeavor to follow their good
941 example and not take any longer than five minutes for our
942 questions. So we are going to move on to member questions.

943 Each member will have five minutes to ask questions of our
944 witnesses and I will start by recognizing myself for five minutes.

945 Ms. Collins-Dexter, in your testimony you talk about the
946 dangers of tech companies' reluctance to regulate disinformation
947 from prominent figures.

948 Recently, Facebook CEO Mark Zuckerberg defended his decision
949 not to moderate inaccurate statements made by President Trump
950 regarding voting by mail and his glorification of violence when
951 he said people protesting the murder of George Floyd, when the
952 looting starts, the shooting starts.

953 Those words have a long history of abetting bigotry and
954 police brutality in this country. Just yesterday, the president
955 threatened protestors in Washington, D.C., with violence.

956 What are online platforms culpable for when they allow this
957 kind of content to be posted and shared by their most prominent
958 users, and what do you think the President's intent was when he
959 signed the executive order to prevent online censorship, as the
960 White House described it?

961 Ms. Collins-Dexter. Thank you, Congressman.

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962 There is so much at stake with people's lives when
963 disinformation is allowed to rule the day and, particularly, it
964 doesn't matter when tech companies enforce the rules with people
965 that have 10 or 20 or 100 followers, if the people that have
966 thousands and millions of followers are allowed to peddle
967 disinformation.

968 And so in terms of vote by mail, we know for a fact that,
969 you know, 80 percent of Americans support vote by mail. We have
970 seen swells in voter turnouts in places like I live like Baltimore.

971 It has actually no impact on partisan turnout. I know that
972 is not important to anyone here but it is actually important for
973 everybody in our democracy to be able to engage in the business
974 of voting.

975 And so when it is left up, all of these allegations that
976 vote by mail is a fraud, it turns people off. It hinders our
977 ability to have, like, safe voting conditions in November when
978 we are still dealing with COVID, and it really does do a disservice
979 to, I think, the work that Congress has invested in in ensuring
980 that everybody can engage in our democracy.

981 In terms of the threats, we personally have dealt with
982 increased number of threats to our lives as individuals and as
983 an organization. I think MoveOn has actually found that in --
984 after monitoring 25,000 comments in certain right-wing groups
985 in particular there were 207 calls to violence and murder that
986 were actually identified, which I can share with folks if they're

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987 interested afterwards.

988 But, like, we see how things that are said online have a
989 deep impact on our safety offline. As far as what the President
990 -- you know, his thinking, I -- you know, I would hate to speculate
991 what anybody thinks internally, particularly --

992 Mr. Doyle. I understand, and you don't need to do that.

993

994 I do want to ask Mr. Overton a question before my time is
995 up.

996 Mr. Overton, in your recent Law Review article entitled
997 "State Power to Regulate Social Media Companies" and voter
998 suppression in minority communities using targeted ads on
999 Facebook and other platforms, we saw in our hearings on the
1000 devastating effect of these efforts in 2016, and I have grave
1001 concerns about the 2020 election.

1002 You argued that the steps taken by online platforms to enable
1003 and tailor the targeting of affected classes such as black
1004 Americans with paid advertisements and promoted posts constitutes
1005 a material contribution to the distribution of these ads and
1006 should make these online platforms liable under state voter
1007 suppression laws.

1008 Does Congress need to clarify Section 230 to make it clear
1009 that platforms that enable these kinds of civil rights violations
1010 are liable not only under federal law but under state law as well?

1011 Mr. Overton. Thank you so much, and you are absolutely

1012 right. We are not necessarily talking about the speech of the
1013 third parties, as you point out. We are talking about the
1014 platforms themselves. They are materially participating by
1015 using their algorithms to target communities of color.

1016 So an employment ad goes to white folks but not to black
1017 folks. Voter suppression ads target at black votes and not other
1018 people, and that is materially participating in the
1019 discrimination, which is not what -- which is not immunity that
1020 230 covers.

1021 So courts have not explicitly talked about that and if
1022 Congress opens up 230, certainly, it should make it explicitly
1023 clear that this type of behavior is not protected by 230.

1024 Unfortunately, Facebook has argued that it is protected and
1025 that they should be able to target ads away from black communities
1026 and employment opportunities to just white folks.

1027 Mr. Doyle. Thank you, and I see my time has expired right
1028 on the button.

1029 I will now recognize my good friend, Mr. Latta, for his five
1030 minutes.

1031 You need to unmute, Bob. There you go.

1032 Mr. Latta. Well, thanks, Mr. Chairman, and I want to thank
1033 you again for holding today's hearing, and if I could start with
1034 Mr. Fried.

1035 This morning I sent a letter to several federal agencies
1036 requesting information about how those agencies use information

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1037 from the Whois database to combat illegal activity online.

1038 Due to the ambiguous and overly broad nature of the European
1039 Union's GDPR, access to Whois information has been restricted
1040 for many third-party organizations that use this information to
1041 identify bad actors online.

1042 Access to Whois is especially important during this pandemic
1043 as we have seen an increase of online misinformation and fraud
1044 targeting consumers.

1045 First question, how did access to Whois information required
1046 in implementation of the GDPR help in the takedown of illegal
1047 content?

1048 Mr. Fried. Thank you, Mr. Latta.

1049 Two ways. One is fairly obvious. If you found someone
1050 engaging in illicit activity from a website you could try and
1051 figure out who holds that website. So it is good in capturing
1052 who is engaged in illicit activity.

1053 What many people don't realize it is also used to prevent
1054 illicit activity because you can track patterns. If you see that
1055 a lot of illicit activity has occurred from a particular website
1056 or from certain people who are holding a website, what web managers
1057 can do is create sort of blacklists, and say we know that this
1058 actor is doing things nefarious. They are engaging in fraud,
1059 they are engaging in cyber-attacks, and corporate or law
1060 enforcement can then proactively prevent those entities from
1061 creating further havoc.

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1062 So it is both catching criminals and preventing crime.

1063 Mr. Latta. Well, and also, just to follow up then, because
1064 does withholding that access to the Whois information from certain
1065 groups reduce the action the domain name providers are able to
1066 take against that illegal content?

1067 Mr. Fried. Yes. And so this is also very important. So,
1068 obviously, law enforcement is critical here. But law enforcement
1069 only has so many resources.

1070 There is a very large community of cyber experts that track
1071 illicit behavior and they can often flag illicit activity both
1072 that has already occurred, or has been just discussed, that may
1073 be happening soon because they can see certain actors who have
1074 engaged in illicit activity in the past about to do something
1075 again, and they can warn public safety law enforcement that
1076 something is amiss, and you lose that as well.

1077 So without Whois, it really hurts the ability of domain
1078 providers to release this information, at least because of the
1079 way the EU's GDPR is being over applied.

1080 Mr. Latta. Well, and just finally, could you briefly
1081 summarize the types of societal problems that could be better
1082 confronted by restoring the access to the Whois information?

1083 Mr. Fried. Everything we are experiencing now, from fraud
1084 to illicit sale of drugs to cyber-attacks, any illicit activity
1085 online often either has a website component or it has IP addresses
1086 that you can find through the Whois data.

1087 So any illicit activity, the scourge of misinformation or
1088 fraud or cyber-attacks, all could be aided -- combatting that
1089 could all be aided if we had better access to Whois data like
1090 we used to have.

1091 Mr. Latta. Thank you.

1092 Mr. Farid, there is much discussion for companies to be
1093 transparent about their terms of service and how they enforce
1094 their policies.

1095 But recently, social media companies seem to be creating
1096 new policies ad hoc to fit their political agenda, arguably,
1097 making these companies arbiters of speech on their platform.

1098 Both artificial intelligence and human review are important
1099 elements to ensure that harmful and illegal content gets taken
1100 down.

1101 But how do you address the human bias element to make sure
1102 that Americans are able to exercise their right of free speech?

1103 Mr. Farid. I think the bias question is important,
1104 Congressman, and I think it is important for us to talk about
1105 it.

1106 Let me say that there is no compelling evidence that we have
1107 seen to date that shows that there is a consistent bias. You
1108 can always take individual cases and show that there is a problem
1109 here or there. But the consistent disproportionate affecting
1110 of one group or another, politically, we have not seen.

1111 So I think the answer to your question is we need

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1112 transparency. We need transparencies in the rules. We need
1113 transparencies in how they are being enforced. We need better
1114 reporting. We need more consistency, and we need more
1115 investment.

1116 The fact is that the tech companies have not invested in
1117 the technologies and into the services they need to moderate their
1118 platforms because, frankly, it is bad for business.

1119 And so we need for them to put more effort into this and
1120 for it to be transparent and clear and consistent application
1121 of the rules, and without, as we have been talking about, real
1122 reform in 230 -- not removing it, as you said in your opening
1123 remark, but real reform -- I think that is going to very difficult
1124 to achieve.

1125 Mr. Latta. Well, thank you very much, Mr. Chairman. My
1126 time is just set to expire and I yield back the balance.

1127 Mr. Doyle. I thank the gentleman.

1128 The chair now recognizes Ms. Schakowsky for five minutes.

1129 You need to unmute, Jan.

1130 Ms. Schakowsky. Okay. Mr. Fried, I just want to point out,
1131 you said that you hope that 230 and the liability shield would
1132 not be in trade agreements, and as you know, because I was --
1133 and I know because I was on the working group, it is in the
1134 U.S.-Canada-Mexico Trade Agreement and I think we need to work
1135 in a bipartisan way to make sure that we are keeping it out of
1136 future agreements because it will make it harder for us then to

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1137 moderate 230.

1138 So I hope we can work together on that.

1139 As Mark Zuckerberg noted so clearly when he testified before
1140 Congress, Facebook and other social media platforms make money
1141 by selling ads. In many of our consumer protection hearings,
1142 someone uses the now kind of cliché line, if you are not paying
1143 for the product, you are the product.

1144 Simply put, the longer you stay on an app, the more money
1145 the company makes, and what gets and keeps people online, as Dr.
1146 Farid noted in his testimony, content that is, quote, "novel and
1147 provoking," unquote, such as conspiracy theories and snake oil,
1148 et cetera, and COVID-19 hoaxes and things about protestors are
1149 -- draw viewers.

1150 So let me ask you, Dr. Farid, can you discuss why many of
1151 the big platforms allow amplification of conspiracies and
1152 disinformation to happen, and how the business model seems to
1153 be benefiting them.

1154 Mr. Farid. Thank you, Congresswoman. You said it
1155 absolutely right, that social media is in the engagement and
1156 attention business.

1157 So they profit when we spend more time on the platform.
1158 They collect more data from us and they deliver ads. They didn't
1159 set out to fuel misinformation and hate and divisiveness. But
1160 that is what the algorithms learned.

1161 So when you do a AB testing -- if we show you this do you

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1162 spend more or less time on the platform -- algorithms have learned
1163 that the hateful, the divisive, the conspiratorial, the
1164 outrageous, and the novel keeps us on the platforms longer, and
1165 since that is the driving factor for profit, that is what the
1166 algorithms do.

1167 Now, they could change the algorithms. They could just say,
1168 look, it is not all about engagement. It is not all about profit.

1169 It is about a healthier ecosystem, democracy in society and they
1170 could just veil you something else than what they are optimizing
1171 for.

1172 But the core poison here, Congresswoman, which is what you
1173 are getting at is the business model. The business model is that
1174 when you keep people on the platform you profit more and that
1175 is fundamentally at odds with our societal and democratic goals.

1176 Ms. Schakowsky. Thank you. You know, we hear over and over
1177 again from Big Tech that, well, we are going to fix this.
1178 Self-regulation really works. And I don't think that -- I
1179 personally don't think that is true.

1180 Congress routinely, routinely regulates commercial activity
1181 to prevent harm, harmful products from being sold, stop fraud,
1182 and deter illegal discrimination.

1183 So when a company is profiting from its decisions to push
1184 counterfeit products or facilitating housing discrimination,
1185 they should be held accountable.

1186 So, Mr. Overton and maybe we could also hear from Ms.

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1187 Collins-Dexter -- do I have any time left? Yeah, I do.

1188 You testified that the status -- okay. Let me try again.

1189 You testified that the status quo for Section 230 is not working
1190 to protect civil rights.

1191 Can you expand a little bit on the civil rights aspect?

1192 Mr. Overton. Yes, thank you.

1193 So it is not working because in part the algorithms are --
1194 have a discriminatory impact in effect. Even when they take
1195 explicit racial groups and targeting out, they are still profiting
1196 from that in terms of employment.

1197 When we look in other areas, we see voter suppression that
1198 continues to exist. Something was just uncovered in terms of
1199 a group in Ghana and Nigeria targeting black Americans with
1200 disinformation.

1201 So we see several examples. It is very unlike COVID.
1202 Certainly, there was misinformation with COVID, but the thought
1203 was, hey, there is public health here at stake. We really also
1204 need to be focused about on the health of our democracy and we
1205 need platforms to be serious about that.

1206 Ms. Schakowsky. Thank you. Actually, my time has expired.

1207 Mr. Doyle. The gentlelady's time has expired.

1208 Ms. Schakowsky. Yes. So maybe we can talk offline. Thank
1209 you very much.

1210 Mr. Doyle. Okay. Thank you.

1211 The chair now recognizes Mr. Shimkus for five minutes.

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1212 [No response.]

1213 Mr. Doyle. Is Mr. Shimkus here?

1214 [No response.]

1215 Mr. Doyle. Okay. Let us go to Dr. Burgess. You are
1216 recognized for five minutes.

1217 Oh, I am sorry. Is the chair here? Is Mr. Walden here?

1218 [No response.]

1219 Mr. Doyle. Is the chairman here? Is Mr. Walden here, Bob?

1220 [No response.]

1221 Mr. Doyle. Okay. Dr. Burgess, you are recognized for five
1222 minutes.

1223 Ms. O'Connor. Mr. Doyle, both Mr. Walden and Mr. Burgess
1224 are at Rules Committee at the moment.

1225 Mr. Doyle. Okay. Is Mr. Shimkus present?

1226 [No response.]

1227 Mr. Doyle. Okay. Are we down to what, Mr. Guthrie?

1228 Mr. Guthrie. Mr. Guthrie.

1229 [Laughter.]

1230 Mr. Doyle. Yes, Mr. Guthrie is recognized for five minutes.

1231 Mr. Guthrie. Thank you, Mr. Chair. I appreciate it very
1232 much.

1233 Mr. Doyle. I think we have members on the Rules Committee,
1234 but.

1235 Mr. Guthrie. Yes. Yes, they were. I am standing by.

1236 Thank you very much.

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1237 Dr. Farid, my first question is for you. Welcome back to
1238 the committee. We all -- we like hearing from you. Enjoy our
1239 discussions.

1240 We often hear that there are difficult judgment calls on
1241 content moderation. Do you believe these large social media
1242 companies currently possess the technological means to better
1243 moderate illicit content on their platforms? And if they do,
1244 why aren't they using it?

1245 Mr. Farid. Thank you, Congressman. Good to see you again
1246 and good to be back here.

1247 I don't actually think they have very good technology. It
1248 is not that the technology can't be developed. It is just they
1249 haven't developed it. They haven't prioritized it. I will give
1250 you a couple of examples.

1251 On Facebook and on YouTube, you are not allowed to post adult
1252 legal pornography. Perfectly protected speech, by the way, and
1253 nobody gives Facebook and YouTube a hard time for eliminating
1254 that content, which they do, by the way, very effectively because
1255 it is bad for business. Advertisers don't want to advertise
1256 against that content to spread their information.

1257 When the DMCA was passed, we got very good at removing
1258 copyright infringement because the law insisted on it. So when
1259 there has been an insistence to remove content or that it was
1260 important for businesses, the companies have actually gotten very
1261 good. They simply haven't prioritized misinformation,

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1262 disinformation.

1263 And I would also point out that it is not always entirely
1264 about either removing the content or not. It is also about the
1265 amplification.

1266 So what they could choose to do, even if they don't have
1267 the ability to detect fake news, misinformation, disinformation,
1268 is they could reprioritize the algorithms so that trusted
1269 information is brought above untrusted information.

1270 So you can think about the problem in two ways. It is not
1271 about necessarily detecting fake information but it also could
1272 be about detecting trustworthy information or civil discourse.

1273 And so it is simply not a priority for them, and despite
1274 the claims, by the way, and by the way it's the same claims about
1275 copyright infringement. But as soon as the laws were passed,
1276 well, they got really good at it.

1277 And the same case about child sexual abuse material, and
1278 when the public pressure escalated so much they eventually started
1279 removing the content after years and years of denial that it was
1280 possible.

1281 Mr. Guthrie. Well, that is very helpful. Thank you very
1282 much.

1283 And also a question to you, again. I appreciate your
1284 collaboration with Microsoft to develop photo DNA over a decade
1285 ago. When you work with these companies, what are the benchmarks
1286 you would advise these companies to meet in such as investment

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1287 in personnel?

1288 Mr. Farid. Yes, it is a great question, Congressman.

1289 So, you know, one of the hardest things with these companies
1290 is there is a lack of transparency, and so we don't know how much
1291 child sexual abuse material, how much terrorism material, how
1292 much illegal drugs and misinformation goes through their
1293 networks.

1294 So the first thing is to really get good at reporting and
1295 understanding the flow of disinformation through your services
1296 so that as we deploy technologies we can do better.

1297 So here is what I can tell you is that in all of the major
1298 companies dealing with these things are not a priority. So
1299 whether it is human moderators or whether it is research or whether
1300 it is technology deployment, it is simply not being prioritized.

1301 Now, the thing you will always hear is, well, we do this,
1302 we do this, we do this, and we do this. The answer is that is
1303 fine, but what they are not telling you is what they are not doing.

1304 So when I make the call for transparency on the flood of
1305 disinformation (audio interference) critical to this and to
1306 reprioritize the priorities of the current company so that we
1307 start dealing with the harmful content, at least as effectively
1308 as we do for making money.

1309 Mr. Guthrie. Okay. Thank you. And I have about a minute
1310 left. So, Mr. Fried, I would like to ask you this. I appreciate
1311 your answers, Dr. Farid.

1312 Mr. Fried, where do you see emerging technologies such as
1313 artificial intelligence being used to help combat disinformation,
1314 particularly during situations like the current pandemic? Do
1315 you believe AI can be used to identify and remove illicit content
1316 from platforms such as disinformation campaigns and counterfeit
1317 products?

1318 I have about a minute for you to respond.

1319 Mr. Fried. I certainly would not rule out any technological
1320 tool that can help. I would caution, depending on what kind of
1321 artificial intelligence you are talking about, like algorithms,
1322 right, these also can prompt -- some of them got us in the mess
1323 we are in now.

1324 So, absolutely, we should look at all the options. But the
1325 (audio interference) the concerns as well as (audio interference)

1326 Mr. Guthrie. Okay. And I will just follow up then. Do
1327 you believe that -- so Mr. Fried, do you believe that Section
1328 230 of the Communication Decency Act creates a disincentive for
1329 platforms implementing artificial intelligence and other
1330 emerging technologies to address this?

1331 Mr. Fried. So Professor Farid hit on this already, which
1332 that the law could increase the incentive to solve problems, and
1333 right now, because the liability protection applies even if they
1334 do nothing, there is less legal incentive for them to solve that
1335 problem.

1336 Mr. Guthrie. So there is not a disincentive, just no

1337 incentive to do so?

1338 Mr. Fried. There is less of a legal incentive. That is
1339 correct.

1340 Mr. Guthrie. Thank you very much. I have about 10 seconds
1341 left. Appreciate your answers. Appreciate you being here, and
1342 I yield back.

1343 Mr. Doyle. The gentleman yields back.

1344 The chair now recognizes Mr. Rush for five minutes.

1345 Mr. Rush, you are recognized.

1346 Bobby, you need to unmute.

1347 [No response.]

1348 Mr. Doyle. Mr. Rush, if you can hear me, you need to unmute
1349 your microphone, and your video is off, too. So you may want
1350 to check that also.

1351 [No response.]

1352 Mr. Doyle. Okay. I think we are going to go to Mr.
1353 Butterfield. Mr. Butterfield, we will recognize you for five
1354 minutes and we will come back to Mr. Rush when he gets back online.

1355 Mr. Butterfield?

1356 [Laughter.]

1357 Mr. Doyle. Isn't technology wonderful?

1358 Mr. Butterfield?

1359 Okay. Mr. Rush, can you hear me?

1360 Mr. Rush. I certainly can now. I can hear you and I can
1361 see you, Mr. Chairman.

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1362 Mr. Doyle. Okay. You are now recognized for five minutes,
1363 my friend.

1364 Mr. Rush. Well, thank you very much, Mr. Chairman, and I
1365 am delighted to participate in this hearing, and I want to welcome
1366 all of our witnesses.

1367 Ms. Collins-Dexter, I have introduced the COVID-19 Testing,
1368 Reaching, and Contacting Everyone, which is called the TRACE Act,
1369 which is meant to provide contact tracing and testing in the face
1370 of this pandemic.

1371 We have almost 70 co-sponsors, and this bill has been subject
1372 to an incredible amount of disinformation and distortions and,
1373 frankly, downright lies, all on social media platforms.

1374 This occurred primarily due to the bill's number H.R. 6666
1375 and the bill is facing distortions which focus on the
1376 African-American community.

1377 When my staff engaged 10 companies to prevent the spread
1378 of this disinformation, they were told that the posts represent
1379 people expressing their opinions on legislation and, therefore,
1380 don't violate community guidelines.

1381 While I totally support a free and spirited discussion, I
1382 believe it is also important to recognize that disinformation
1383 can have real and significant consequences.

1384 I wonder, then, where and how do we draw the line between
1385 opinion and disinformation.

1386 Ms. Collins-Dexter. Yes. I think it is extremely

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1387 important that we draw that line. Thank you, Congressman.

1388 A difference of opinion is I think taxes should go here
1389 versus, you know, pay less taxes and there is a number of ways
1390 in which we have to be invested in the free marketplace of ideas.

1391 But when it comes to information that is put forward that
1392 directly endangers people's lives on and offline, in the case
1393 of your bill, Congressman, we are seeing right now that from the
1394 data we do know that 60 percent of cases, depending on the state,
1395 of deaths from COVID-19 are black people.

1396 There is a high number of stakes involved with the amount
1397 of disinformation we've seen floating around, and particularly
1398 when congress people are trying to put forward bills that would
1399 increase the data and awareness of folks around this and other
1400 things, it is extraordinarily important that we do that there
1401 is a difference between opinion and there is a difference between
1402 the need for facts in our society.

1403 Mr. Rush. Yes. Next, Ms. Collins-Dexter, AI trained --
1404 you stated in your testimony that, I quote, "AI trained to identify
1405 hate speech may actually amplify racial bias." This is a big
1406 concern to me and many of my colleagues.

1407 What could and should Congress do to prevent and mitigate
1408 this outcome?

1409 Ms. Collins-Dexter. Yes. So, I mean, I think that, like,
1410 with the issue of AI we found time and time again racial bias
1411 in health care software, in crime software. Google's hate speech

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1412 has a AI racial bias problem as well as the technology that was
1413 used on Facebook.

1414 And so I think -- and also we see that a lot of content
1415 moderators are contractors or not necessarily in the country and
1416 not able to really do their job at full scale. And so I think
1417 that kind of points to some of the ways in which I would see
1418 Congress moving forward.

1419 I think something like bringing back GAO would be really
1420 great to help ensure that Congress is informed and able to make
1421 the decisions around how to move forward on decisions like AI
1422 monitoring.

1423 Mr. Rush. Mr. Chairman, I think that my time has been
1424 expired and I yield back.

1425 Mr. Doyle. I want to thank the gentleman for yielding us
1426 back 43 seconds, setting such a good example.

1427 I can see my good friend, John Shimkus, on the screen. So
1428 Mr. Shimkus, you are recognized for five minutes.

1429 Mr. Shimkus. Thank you, Mr. Chairman. It is a great
1430 hearing and thank you for the panelists for being here.

1431 I want to direct my questions to Neil Fried. It is good
1432 to have and see him again, of course, working with the committee
1433 for many years.

1434 And I think we all can agree that some content decisions
1435 are complex. But you suggest companies have not met the bar when
1436 it comes to clearly illegal content or violation of terms of

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1437 service.

1438 Do the current incentives under Section 230 encourage
1439 companies to proactively engage in enforcing their terms of
1440 service or simply waiting for users to flag content?

1441 Mr. Fried. Thank you, Mr. Shimkus.

1442 So despite the claim that it actually encourages content
1443 moderation, it doesn't. What it does do, right, in the safe
1444 harbor for content moderation is it gets rid of the disincentive
1445 caused by the Prodigy case.

1446 But what provision gives, essentially, 230(c)(1) takes away
1447 by saying you can't be held liable for anything anyway. So that
1448 actually (audio interference) no incentive to be legal, incentive
1449 to be proactive.

1450 Mr. Shimkus. Okay. And we had some interruption there.
1451 So but let me just follow up.

1452 And if companies decide to engage proactively, how do those
1453 incentives prevent the engagement from being entirely one-sided
1454 at the whim of the employees making those decisions?

1455 Mr. Fried. So the discretion is completely theirs. There
1456 is no -- most every other business who is not a platform will
1457 have some duty of care. They could be held culpable if they act
1458 recklessly.

1459 That does not apply to the platforms. So it is completely
1460 within their discretion. There is not a legal incentive for them
1461 to actually act.

1462 Mr. Shimkus. Great. My family is fourth generation
1463 Lithuanian Americans, and I follow a lot of the Baltic issues,
1464 as you know, and disinformation that comes from Russia throughout
1465 Eastern Europe but particularly the Baltic countries.

1466 So the Lithuanian government has created an initiative
1467 called Debunk.eu to combat disinformation. They found that in
1468 this COVID crisis there had been a significant increase in online
1469 disinformation with stories that have stirred up Russophobia in
1470 the Baltics to push false narratives and the failures of the Baltic
1471 governments and spread messaging that COVID-19 is destroying the
1472 European Union.

1473 Are there any lessons the U.S. can learn from projects like
1474 Debunk.eu?

1475 Mr. Fried. So, Mr. Shimkus, I am not familiar with that
1476 particular project. But, clearly, if that were to reveal
1477 information about websites that are engaged in misinformation,
1478 it would be great to have access to Whois information to try and
1479 track them down, see the patterns that exist that cyber experts
1480 often try to do and prevent that information from spreading.

1481 Unfortunately, we don't have Whois access because of an over
1482 application of GDPR.

1483 Mr. Shimkus. Yes, and I am trying to look for my clock to
1484 check my time, and if I have available time if any one of the
1485 other panellists want to address that.

1486 Combatting -- I have got two minutes left -- combatting

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1487 information with information is kind of what the Lithuanians are
1488 doing, and so it is, you know, fighting in that space.

1489 Does anybody else maybe -- I see Ms. Collins-Dexter shaking
1490 her head. Would you like to comment on that?

1491 Ms. Collins-Dexter. Yes. I think it is extremely
1492 important when we look at models around the globe that there are
1493 countries that are taking this very seriously, the issue of
1494 disinformation. We have seen how that has played out in Ukraine
1495 and some of the places that you have mentioned.

1496 This is part of the reason why I have advocated for a data
1497 protection agency. But in terms of, like, looking around and
1498 seeing what are the lessons, how can we get this right, we have
1499 to have a vested interest in getting it right.

1500 Mr. Shimkus. Thanks. Mr. Farid?

1501 Mr. Farid. Thank you, Congressman.

1502 Good information, trustworthy information are necessary but
1503 they are not sufficient conditions. So we need that information
1504 but we also then need the platform algorithms to allow them to
1505 surface.

1506 If those get buried by the recommendation algorithms, they
1507 don't do us any good. So I think we need two things. We need
1508 that trustworthy information and then we need for them to be valued
1509 and promoted above the untrusted information that we are talking
1510 about.

1511 Mr. Shimkus. Great. I have 43 seconds left, Mr. Chairman.

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1512 Thank you, and I yield back my time.

1513 Mr. Doyle. I thank the gentleman for yielding back.

1514 The chair now recognizes Mr. Butterfield for five minutes.

1515 Mr. Butterfield. Thank you very much, Mr. Chairman. Thank
1516 you again for convening this very important hearing today and
1517 thank you to the witnesses for your testimony.

1518 Mr. Overton, it is good to see you again. I have known you
1519 and of your work for many years now, and thank you very much for
1520 your testimony.

1521 Let me ask you, Mr. Overton, how does the dissemination of
1522 misinformation disenfranchise marginalized communities? Would
1523 you break it down at a level so that the average person can
1524 understand that?

1525 Mr. Overton. Certainly. Thank you very much and thanks
1526 for your leadership and your service to our country.

1527 The unique nature of social media involves micro targeting
1528 and, as a result, especially with ads, you can target particular
1529 groups.

1530 So, for example, this is what the Russians did and some other
1531 folks do, targeting African Americans with particular messages,
1532 building trust, et cetera, and then toward the end saying, well,
1533 hey, let us protest police brutality and let us protest systemic
1534 racism by staying home and not voting. That is a real problem
1535 in the micro targeting so other people in the nation don't really
1536 know what is going on and these messages are targeted right at

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1537 black folks. That is a part of the problem.

1538 Now, micro targeting has some good traits if you think about
1539 sickle cell anaemia, other things. We want to help people in
1540 certain ways. But it can also be used for negative purposes.

1541 Mr. Butterfield. Well, it seems that we need to correct
1542 this issue and we need to move pretty fast. So what, in your
1543 opinion -- what are the platforms just plain failing to do and
1544 what do we need to do immediately?

1545 Mr. Overton. Well, the platforms were very serious in terms
1546 of COVID-19. They did things like look to outside experts and
1547 third-party credible entities to figure out what information was
1548 good, what information was bad.

1549 They invested a lot of resources and took it more seriously
1550 than they have taken voting issues. So the first thing is,
1551 really, platforms -- them, themselves -- need to step up to the
1552 plate.

1553 Second piece here is they need to disclose information so
1554 that we understand what is going on in terms of the American
1555 public, both the schemes that are going on and how they are
1556 applying their standards.

1557 So that disclosure at this point is important. You know,
1558 there is a question can anything be done in terms of law in the
1559 next few months. But, certainly, a hearing pressing these
1560 countries is important.

1561 Mr. Butterfield. Let me next turn to Dr. Farid.

1562 Dr. Farid, how has the reluctance by some social media and
1563 tech companies to fact-check content on their platforms actually
1564 exacerbated the spread of disinformation?

1565 Mr. Farid. Thank you, Congressman.

1566 I think you are right. When Mark Zuckerberg takes the stand
1567 that we don't want to be the arbiters of truth, this is part of
1568 what the problem is we are facing in the misinformation
1569 apocalypse.

1570 But it is also, as I said in my testimony, completely missing
1571 the point. The point is not always entirely about what's true
1572 and what's false, but it is what is being amplified.

1573 The power of Facebook, the power of YouTube, the power of
1574 Twitter is in the recommendation engine, and as Professor Overton
1575 was saying, in the micro targeting of information.

1576 So I think there is a bit of a head fake being done here
1577 to say, well, we don't want to tell people what is real and what
1578 is not when, in reality, they are telling us on a daily basis
1579 what is relevant and what we should view.

1580 That is what, I think, the discussion should be had is what
1581 is being actively promoted and recommended and micro targeted,
1582 and then we can move away from some of the difficult conversations
1583 of the gray area of content being either true or false.

1584 Mr. Butterfield. Okay. And I think you may have touched
1585 on this but let me just go ahead and put it out anyway. How would
1586 you recommend that tech companies take meaningful action to

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1587 prevent the dissemination of disinformation on their platforms,
1588 meaning -- I mean, not just rhetoric but they need to act quickly.

1589 Mr. Farid. I agree, and I have been deeply frustrated for
1590 over a decade in their response from everything from child sexual
1591 abuse to terrorism to illegal drugs and misinformation, and the
1592 reality is they have not acted.

1593 And so I think there should be a call of action to the
1594 advertisers. The reality is that the social media companies are
1595 almost entirely dependent on advertising dollars.

1596 There are 10 CEOs in the world who can wake up tomorrow and
1597 say, enough is enough. We are done with technology being
1598 weaponized. We will no longer advertise on these platforms, and
1599 there is a slowly growing effort on that part. A number of
1600 companies have started to withhold advertising dollars. Disney
1601 has done it in the past with YouTube because they failed to protect
1602 children.

1603 I think if we want action today that is where the power is,
1604 is in the advertising dollar.

1605 Mr. Butterfield. Thank you, Dr. Farid. I have run out of
1606 time, and our chairman yields a pretty mean gavel.

1607 I yield back.

1608 Mr. Doyle. I want to thank the gentleman for yielding back.

1609 Okay. I see the doctor is back in the house so we will
1610 recognize Dr. Burgess.

1611 Mr. Burgess. Thank you. Thank you, Chairman. I

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1612 appreciate the recognition.

1613 Mr. Fried, let me ask you, and I apologize for the fact that
1614 there are duelling hearings going on, and if you have already
1615 answered this I will apologize to you in advance.

1616 But in your written testimony you argued that Congress should
1617 restore a duty of care by requiring the technology company that
1618 hosts content to only receive the 230 immunity if they make a
1619 good-faith effort to remove said illicit content.

1620 So in your view, what does make up this good-faith effort?

1621 Mr. Fried. So the good-faith effort is not as much an issue
1622 there as the reasonable action, right. Under a common law view,
1623 any company can be held culpable if they act negligently,
1624 recklessly, or knowingly failing to prevent one user of its
1625 services to harm other users.

1626 And so that increases the incentives to make sure that they
1627 are not (audio interference) take decent steps (audio
1628 interference) steps they're fine. But Section 230 says that no
1629 matter what happens, a platform cannot be held culpable even if
1630 (audio interference) it has no concept of this problem if we
1631 actually required the reasonable step, I think this would,
1632 largely, solve itself.

1633 As Professor Farid mentioned, they have a legal incentive
1634 to act and they (audio interference) responsibility by design
1635 to anticipate the risk a more reasonable (audio interference)
1636 and, certainly, when they know of illicit activities, they'll

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1637 be able to stop it. So even (audio interference) there are
1638 liability protections (audio interference) would encourage more
1639 responsible behavior.

1640 Mr. Burgess. Great. So I had an opportunity just this week
1641 to have a conversation with our former colleague, Chris Cox, who
1642 was, if I recall correctly, one of the authors of this provision
1643 originally, and he suggested that the authority by the state AGs
1644 to enforce unfair deceptive trade practices -- mini FTCs, I think,
1645 he referred to them as -- but they could be used to enforce content
1646 moderation policies as outlined in the terms of conditions.

1647 So, Mr. Fried, if you could speak to that.

1648 Mr. Fried. So there is (audio interference) the state
1649 action would be pre-empted. So it is not quite clear what the
1650 states will be able to do and I think that the state AGs have
1651 expressed concern about that, and Congress (audio interference)
1652 might want to look at that.

1653 Mr. Burgess. So given the cross-border applications on the
1654 internet and the way the technology works, where actually does
1655 the jurisdiction then reside?

1656 Mr. Fried. Well, certainly, if there is criminal activity
1657 in the state, the state takes the view its citizens are being
1658 harmed, as you point out, that maybe jurisdiction over the
1659 institutions perpetrating the harm. If there are requirements
1660 that apply to these online providers (audio interference) So there
1661 are some jurisdictions used to address. But we have done that

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1662 before and we can do that again.

1663 Mr. Burgess. So is this a viable option to get companies
1664 to comply with their own content moderation policies?

1665 Mr. Fried. I think so. It works for every other industry
1666 (audio interference) have an industry many of whom compete with
1667 the online platforms. There are non-online media entities and
1668 the platforms (audio interference) with brick and mortar
1669 companies not in the media space. They have this obligation and
1670 they deal with it, and so I am not sure why the platforms shouldn't.

1671 230 works for the Good Samaritan, but it is also shielding
1672 Bad Samaritans. We need to address the Bad Samaritan problem.
1673 Eliminate 230 would fix it to right the incentives.

1674 Mr. Burgess. So it seems like anything that changes the
1675 applicability of Section 230 based on size of the technology
1676 company could create a barrier to entry for others who are just
1677 starting out and, obviously, much smaller. Is that a concern?

1678 Mr. Fried. I actually don't think so, because under a duty
1679 of care (audio interference) what is reasonable, and certainly
1680 the resources of the entity are a fact in what's reasonable.
1681 A smaller entity has fewer resources. A smaller entity has fewer
1682 users. A smaller entity has fewer (audio interference).

1683 But when they're smaller, they still need content moderation
1684 and (audio interference) they don't have the resources. As they
1685 grow, the expectation grows with them and with it the
1686 responsibility to build their platform. They build their

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1687 platform when they're small to address the problems when they're
1688 big.

1689 Problems (audio interference) have very, very large
1690 platforms that really weren't focused on (audio interference)
1691 right. And so now we have a much broader problem (audio
1692 interference) I think a duty of care can (audio interference)

1693 Mr. Doyle. The gentleman's time has expired.

1694 Mr. Burgess. I thank the chairman. I will yield back.

1695 Mr. Doyle. Thank you. The gentleman yields back.

1696 Let me remind all members that in order to be recognized
1697 your video needs to be on and active. So if you are in line waiting
1698 to be recognized, please make sure you have your video on.

1699 I see that the chairman of our full committee has returned
1700 from the Rules Committee. So it gives me great pleasure to
1701 recognize Mr. Pallone for five minutes.

1702 The Chairman. Thank you, Chairman Doyle, and this is such
1703 an important hearing on disinformation and how it divides the
1704 nation.

1705 I constantly am reminded of a quote by Mark Zuckerberg that
1706 he doesn't want to be, and I quote, "the arbiter of truth." But
1707 I think that that absolutely misses the point, and I know that
1708 Dr. Farid is there, and in his written testimony he talks about
1709 how certain disinformation or conspiracy theories are amplified
1710 on platforms like Facebook, and the problem caused by Facebook
1711 has nothing to do with truth and falsity, in my opinion. It is

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1712 about what they amplify or don't, and it may go to a fundamental
1713 problem with Facebook's business model.

1714 So last month, the Wall Street Journal published an article
1715 entitled "Facebook Executives Shut Down Efforts to Make the Site
1716 Less Divisive," and I would like to introduce it for the record.

1717 It is here. And I think that this article shows that Facebook
1718 understands the problem but won't address it. I guess I should
1719 ask unanimous consent of you to enter it into the record, Mr.
1720 Chairman.

1721 Mr. Doyle. Yes. Without objection, so ordered.

1722 [The information follows:]

1723

1724 *****COMMITTEE INSERT*****

1725 The Chairman. Thank you.

1726 So let me ask Dr. Farid. Do you believe the major platforms
1727 understand that they are promoting disinformation and
1728 conspiratorial content, and could they address it if they wanted
1729 to?

1730 Mr. Farid. Thank you, Congressman.

1731 So, first of all, I think you are absolutely right about
1732 the landscape here. The Wall Street Journal did a very good job
1733 of revealing what we have known for a long time, which is that
1734 Mark Zuckerberg and the C-Suite in Facebook knows that they are
1735 peddlers of hate, divisiveness, conspiracies because it is good
1736 for business.

1737 So they have known this for a long time. The algorithms
1738 have learned this to the tune of \$70 billion last year in revenue.

1739 And they could do something about it. They absolutely could.

1740 But it would, of course, reduce engagement and, therefore, reduce
1741 profits.

1742 And so there is just -- this is sort of our problem with
1743 these business models of social idea is that they are misaligned
1744 with individual, societal, and democratic goals because they have
1745 figured out that they can tap into the lowest common denominator
1746 of humans.

1747 So it is like any other addictive substance, right. These
1748 things are tested in order to keep us addicted, in order to tap
1749 into the things that we -- are not necessarily positive for

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1750 society.

1751 So we can blame us, and you should blame the users for this
1752 for falling into this trap. But the fact is that we are being
1753 manipulated by the algorithms in order for them to simply get
1754 our data and provide advertising dollars to us.

1755 The Chairman. Well, thank you.

1756 So, I mean, these platforms may bias towards conspiracy
1757 theories. But I think the problem is made ten times worse when
1758 important figures and government officials peddle disinformation
1759 or conspiracy and hate that feeds these platforms.

1760 So let me ask Ms. Collins-Dexter. In your written
1761 testimony, you discuss how some public figures peddle
1762 disinformation to the masses with few, if any, repercussions and,
1763 as we know, President Trump is one of those public figures.

1764 So let me ask you, how has President Trump used social media
1765 to spread or amplify disinformation that is harmful to black
1766 Americans and otherwise inflame racial tensions?

1767 And you also mention that social media companies like
1768 Facebook are not fact-checking posts consistently such as those
1769 related to mail-in voting.

1770 And so what is the effect of that inconsistent fact-checking?

1771 So first with the racial tensions and second with the, you know,
1772 mail-in voting as examples, if you could, Ms. Collins-Dexter.

1773 Ms. Collins-Dexter. Yes, thank you, Congressman.

1774 We have pointed out several different examples over the

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1775 course of this and the ways in which commentary around protestors
1776 and this depiction of Black Lives Matters as a terrorist
1777 organization has had deep impacts in terms of, like, harms to
1778 people on the ground.

1779 But another way in which I have seen the President push
1780 disinformation is actually some of his early commentary on
1781 COVID-19 and his push that lupus medication was actually what
1782 people should be using.

1783 Now, if you look, again, disproportionately people are
1784 impacted by -- black people are impacted by COVID, also
1785 disproportionately impacted by lupus and a number of other
1786 autoimmune diseases. It runs rampant in my family, for example.

1787 So that piece of disinformation allowed to stand that caused
1788 a run on lupus medication actually actively, like, harmed people.

1789 My sister couldn't get her medication. There were a number of
1790 different issues. So that is just, like, one example I would
1791 raise.

1792 The Chairman. And what about the mail-in ballots and, you
1793 know, comments about that?

1794 Ms. Collins-Dexter. Again, this danger -- like, we have
1795 talked about the fact that, like, vote by mail is very safe.
1796 There is research that shows that in elections it has .0025 percent
1797 chance of fraud or something like that. So to promote that that
1798 is a fraudulent practice has implications. Also for black people
1799 going to polling places, which we know are being closed down,

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1800 standing in long lines, not being able to engage in democracy
1801 safely.

1802 Mr. Doyle. The gentleman's time has expired.

1803 The Chairman. Thank you.

1804 Mr. Doyle. The chair now recognizes the ranking member of
1805 the full committee. Mr. Walden, you are recognized for five
1806 minutes.

1807 Mr. Walden. Well, thank you very much, Mr. Doyle, and
1808 Chairman Pallone and I were both at the Rules Committee. So I
1809 appreciate being worked in here and I am sorry I wasn't able to
1810 give my opening statement myself. I understand Mrs. Brooks did
1811 a wonderful job with it.

1812 Mr. Farid, I think many of the issues related to content
1813 moderation by platforms could be solved if companies enforced
1814 their terms of service in a transparent, uniform, and equitable
1815 pattern.

1816 That is what it makes it so disconcerting in this case of
1817 Google that we have read about that reportedly, based action off
1818 of inaccurate NBC reporting, and now just yesterday another
1819 egregious action by Twitter to block the President's tweets.

1820 These recent actions make clear that the CEOs of these
1821 companies need to come before this committee to answer our
1822 questions, and if they will not come voluntarily then, Mr.
1823 Chairman, perhaps it is time we compel their attendance.

1824 Mr. Fried, free speech and content decisions are certainly

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1825 tricky, and I am certainly an advocate of the First Amendment.

1826 I have a degree in journalism.

1827 But how can we incentivize these companies to step up and
1828 apply their rules with more transparency and more uniformity?

1829 Mr. Fried. Thank you, Mr. Walden. Good to see you.

1830 Certainly, transparency would be helpful. I know there is
1831 some discussion that, you know, a violation of a terms of service
1832 could be a contractual problem. There is some discussion, I
1833 think, of asking the FTC to step in and call it an unfair practice.

1834 So you could certainly try that. One thing I suggest you
1835 look at is, and this was raised by DOJ, is whether Section 230
1836 might actually even preempt FTC action. It is an open question.

1837 If you look at the Roommates.com case, which was mentioned
1838 sort of implicitly earlier, if the platform is itself acting in
1839 an illegal fashion and perhaps violating a term of service, were
1840 that Congress's decision to make clear it is an illegal action
1841 and an unfair practice, then maybe under the Roommates case the
1842 FTC could have jurisdiction because it is not a content moderation
1843 issue.

1844 I surmise, however, that the platforms will argue that no,
1845 no, this about our content moderation, not about terms of service.

1846 And so Section 230 preempts.

1847 So, certainly, calling it an unfair practice to violate the
1848 terms of service could be an issue. But I'm not sure how that
1849 interplays with Section 230 just yet.

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1850 Mr. Walden. Yes, and I guess for the average consumer or
1851 user, pretty tough to take on these giants individually and wage
1852 this battle. This is bigger than City Hall.

1853 Mr. Fried. And keep in mind, too, again, I am all for the
1854 transparency. But they control their terms of service. So if
1855 they know that a violation of their terms of service could cause
1856 an FTC violation, they presumably would write their terms of
1857 service in a more generic way as to avoid liability under the
1858 -- that sort of theory.

1859 So that is why I certainly think transparency helps. I fear
1860 we are going to have to address the 230 immunity to really solve
1861 this problem.

1862 Mr. Walden. Well I think it is long overdue, in many
1863 respects. It was a law written decades ago in an era that didn't
1864 contemplate the modern communication technology scope and the
1865 power of these platforms.

1866 And I know it is not easy to quote, unquote, "regulate" speech
1867 because what one person finds offensive the other may say that
1868 is my right. And so they are in a tricky position as well.

1869 But I know we have asked Google three pretty simple questions
1870 about this case involving The Federalist and just how were they
1871 notified, how did it work, and all that, and we still don't have
1872 answers back on that, and they were actually pretty simple
1873 questions.

1874 Mr. Farid, you mentioned how companies employ algorithmic

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1875 amplification to increase views of certain content that draws
1876 attention to their platform but need to prioritize algorithms
1877 to promote trusted information over misinformation.

1878 Should there be a heightened accountability for these
1879 platforms when it comes to amplified content in order to gain
1880 liability protection, and how do you incentivize these actions?

1881 And I know when I chaired the committee, we actually did
1882 a hearing on algorithms so members could better understand how
1883 they are created, because there is implicit bias in some of the
1884 algorithms that is unfair and can -- I will leave it that. But
1885 it was certainly demonstrated that there are some unfair issues
1886 in the algorithms.

1887 So Dr. Farid, can you explain?

1888 Mr. Farid. Yes. So there is no question, Congressman, that
1889 simply turning over everything to algorithms that are not
1890 explainable or understandable solves all of our problem.

1891 As Ms. Collins-Dexter pointed out, we have seen bias in
1892 algorithms in medical care, in judicial systems. So we do have
1893 to be careful about that. And again, you know, we have been
1894 beating this drum. But the transparency and the understanding
1895 of these algorithms is critical.

1896 I would say though that, you know, we still have this tension
1897 here between misalignment of corporate interests and societal
1898 interests and what is keeping people on the platform, and that
1899 I think is where that tension is.

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1900 You are absolutely right, Congressman, there is -- they have
1901 a tough business to run.

1902 Mr. Walden. Yes.

1903 Mr. Farid. What insults you doesn't insult me, and vice
1904 versa.

1905 Mr. Walden. And I know my time is about over. But I would
1906 just say I have seen it too in the news business where they actually
1907 read what story what time of the day, which headline, which lead
1908 gets you most.

1909 And I am not sure that is a good thing either. I realize
1910 they got to run their business, but I am not sure -- that only
1911 reinforces kind of -- it doesn't expand our scope of understanding
1912 information. It may just drive us deeper into our own silos.

1913

1914 And so I yield back, Mr. Chairman.

1915 Mr. Doyle. The gentleman's time -- the gentleman's time
1916 has expired. The chair now recognizes Ms. Matsui for five
1917 minutes.

1918 Ms. Matsui. Thank you very much, Mr. Chairman, and thank
1919 you very much for your patience for some of us going back and
1920 forth all the time between Rules and the E&C.

1921 Facebook has announced that it will remove COVID-19-related
1922 misinformation that could contribute to imminent physical harm.

1923 However, Facebook appears to have adopted a narrow
1924 interpretation of imminent physical harm that is allowing

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1925 significant amounts of disinformation to remain in circulation
1926 online.

1927 Dr. Farid, do you believe imminent physical harm should
1928 include false information of our COVID-19 testing site locations,
1929 hours of operation, or documentation required?

1930 Mr. Farid. Thank you, Congresswoman. I agree with you.
1931 I think Facebook has taken a particularly narrow definition of
1932 imminent harm, and maybe that was an excusable position three,
1933 four months ago. But I think it is inexcusable today when we
1934 know that even a fraction of the population that is getting
1935 misinformation can lead to health problems for the entire society
1936 and world.

1937 So I think that they need to take a much harder line on this
1938 both in terms of what we see publicly and also the private groups
1939 that are much less transparent.

1940 Ms. Matsui. So do you also believe is there additional
1941 public health misinformation you believe should be removed by
1942 Facebook?

1943 Mr. Farid. Absolutely. We are seeing a proliferation of
1944 misinformation and conspiracies on Facebook, on YouTube, on
1945 Twitter, on Reddit, and on almost all social media platforms that
1946 are not actively being dealt with.

1947 Ms. Matsui. Well you know, even in situations where
1948 Facebook has taken down COVID-19 misinformation, it has failed
1949 to adequately remove all posts spreading the same false

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1950 information. In one instance, Facebook removed a post suggesting
1951 that wearing a mask in public can make you sick but failed to
1952 remove duplicates or clones of this original post.

1953 Dr. Farid, in your opinion, has Facebook committed
1954 sufficient resources to identify and remove all duplicate or
1955 shared posts related to COVID-19 misinformation?

1956 Mr. Farid. They have not, and part of that is excusable
1957 because most of their moderators have not been able to do the
1958 work from home, and I understand that.

1959 But the fact is that prior to COVID-19 they did not have
1960 the safeguards in place both in terms of content moderators, in
1961 terms of technology, and in terms of policy to deal with these
1962 types of issues.

1963 Ms. Matsui. Okay. Facebook has promoted its groups
1964 feature as a way for users to communicate privately with other
1965 users about the topic of shared interest.

1966 While these groups have allowed some family members or local
1967 clubs to foster more intimate interactions, they have also
1968 provided malicious actors with a new tool to spread
1969 misinformation, hate speech, and conspiracy theories.

1970 Ms. Collins-Dexter, how have white nationalists employed
1971 Facebook groups to spread hate speech, and have these groups
1972 translated into real-world activity?

1973 Ms. Collins-Dexter. Absolutely. Our first entry point
1974 into negotiating with Facebook actually came about six years ago

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1975 when there were closed white nationalist hate groups that were
1976 doxing organizers and black people in Sacramento and in Stone
1977 Mountain, Georgia, and people were showing up to those places
1978 and to people's homes with guns. And when we went to Facebook
1979 and asked them to make changes, they said they didn't feel like
1980 they had a problem and were slow to move.

1981 Now, cut to now, we see this plethora of issues coming out
1982 by the day of the ways in which violent hate speech, calls to
1983 murder, calls to violence run rampant in closed groups and
1984 including targeting mosques and other places, and Facebook,
1985 again, has been slow to act.

1986 Ms. Matsui. Well do you believe that Facebook provides
1987 sufficient public information about the ownership, management,
1988 and membership in neo-Confederate or white nationalist groups?

1989 Ms. Collins-Dexter. I think that is a issue -- the same
1990 question. We are for sure in favor of private data. That is
1991 why we support laws like the one in California, and I think it
1992 is extremely important that we maintain data protection
1993 activities.

1994 But, again, when that line crosses over to bullets dipped
1995 in pig's blood, like calls to action that would actively
1996 compromise people's lives and safety, we have to really be
1997 strident about the ways in which we are making that information
1998 public so people can protect themselves.

1999 Ms. Matsui. Okay. I just have a few seconds here.

2000 YouTube has had some success limiting the prevalence of
2001 misinformation by adjusting its recommendation algorithms.

2002 Dr. Farid, do you believe YouTube has the capacity to further
2003 adjust its algorithms to limit the spread of misinformation, and
2004 if so, why haven't these adjustments been implemented? I have
2005 got like 17 seconds so you have 17 seconds.

2006 Mr. Farid. Yes. So the answer is yes, they have the
2007 ability.

2008 In late 2018, we saw upwards of 10 percent of the recommended
2009 videos being conspiratorial, and under public pressure they have
2010 been able to reduce that to around 3 percent. They have always
2011 had the ability to do it. They simply have not.

2012 Ms. Matsui. Okay. Well thank you very much, and I thank
2013 all the witnesses. And I yield back.

2014 Mr. Doyle. The gentlelady yields back. The chair now
2015 recognizes Mr. Kinzinger for five minutes.

2016 Mr. Kinzinger. Well thank you, Mr. Chairman. Thank you
2017 to all our witnesses for being here. Very much appreciate it.

2018 Despite all the debate, I actually have yet to really take
2019 a position on whether to preserve, amend, or repeal Section 230.

2020 Given the potential ramifications, I definitely want to just
2021 take my time and be thoughtful.

2022 What makes the most sense is to make other legislative or
2023 regulatory attempts to bring about the change we want before we
2024 throw the baby out with the bathwater. If those options fail,

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2025 we still have the ability to go back and amend or repeal it later.

2026

2027 For example, I have introduced solutions to one subset of
2028 these issues, the fake accounts, which are under discussion today.

2029 One of them is H.R. 6586, the Social Media Accountability and
2030 Account Verification Act, which was referred to this committee,
2031 and also I have the second bill. It is H.R. 6587, the Social
2032 Media Fraud Mitigation Act, which is related but was referred
2033 to the Judiciary Committee.

2034 Taken together, the bills seek to protect consumers by
2035 improving the operations of social media companies and punishing
2036 those who use fake accounts to cause harm to others. My office
2037 took on the task of trying to legislate or regulate social media
2038 companies without amending Section 230 or trampling on free
2039 speech, and it was certainly not easy.

2040 We consulted with attorneys, nonprofits, consumers
2041 advocates, industry and more, and yes, we want -- we went to every
2042 or almost nearly every Democrat on the two subcommittees
2043 represented here today to ask them to work with me on the bill
2044 and lead it with me.

2045 We offered to work with anyone to improve our language, to
2046 try to garner broad support. To be fair, some did engage and
2047 provide constructive feedback, and I am proud to say that much
2048 of the feedback was incorporated into the bill.

2049 I am not saying this to be mean-spirited. I am not calling

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2050 anyone out by name. But as of today, and not for the lack of
2051 effort, I still don't have a partner on the other side of the
2052 aisle to work with me on it. If my friends on the other side
2053 of the aisle don't like my bill or other ideas offered by my
2054 Republican colleagues, that is fine. It won't hurt my feelings.

2055

2056 But we have put something out there, and so let's either
2057 work on this together or please put forward a reasonable solution
2058 of your own. Because frankly I am a little frustrated that we
2059 keep having the Section 230 conversation and we haven't found
2060 a path forward, or rather it seems we can't even find an
2061 intersection where we are supposed to meet to chart a path forward.

2062 So I will end my comments by, once again, inviting my
2063 colleagues on the other side of the aisle or really any of my
2064 colleagues -- I could use some Republican support as well -- to
2065 reach out so we can move this ball forward.

2066 But more broadly, whether we are talking about romance scams,
2067 fake profiles, or tools of statecraft involved in massive
2068 coordinated disinformation effort, we clearly have a problem with
2069 the status quo.

2070 We have already touched on whether you all think that social
2071 media companies are utilizing all their tools that they can to
2072 be able to take down scams or fraudulent activity, and Mr. Walden
2073 touched on the incentives for the companies. So I want to follow
2074 up on that with Mr. Farid.

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2075 Putting aside the complexities of algorithm development,
2076 what other barriers are there in preventing the companies from
2077 implementing these safeguards?

2078 Mr. Farid. I think the primary barriers are technology.
2079 We saw that when the platforms wanted to remove adult pornography
2080 or copyright information, they were able to do that.

2081 So it is primarily one of resources being put to research
2082 to deal with these issues. But there is real tension here and
2083 we have to recognize it, which is that it is fighting up against
2084 the core business model.

2085 You are literally asking companies to reduce their profits.
2086 And look, that is a tough ask, and that is because the core
2087 business model is one of engagement and not one of the way, say,
2088 Netflix or Spotify or Amazon Prime is where I pay a monthly fee
2089 and they get the money no matter what, and they just have to grow
2090 the user base.

2091 So there is tension here, and I think that tension is at
2092 the core of why it is difficult to get the companies to act on
2093 these issues.

2094 Mr. Kinzinger. So is the only real answer then government
2095 intervention, in your mind?

2096 Mr. Farid. I think there is two interventions. One is
2097 healthy competition. Maybe it is time for a better business
2098 model. Maybe we don't have to have a purely data-driven ad-driven
2099 technology sector.

2100 Maybe there is a better business model. Maybe advertisers
2101 can say, you know what, we don't want our ads running against
2102 hateful divisive conspiratorial content.

2103 And then, of course, there is us, the user. I mean so you
2104 could blame the people creating the fake content. You can blame
2105 the platform for amplifying it. But we are part of the problem,
2106 too. We are the ones sharing it, liking it, and retweeting it.

2107 So as an educator, I also have to say this is our failure
2108 that we the people are part of the problem as well, and of course
2109 there has to be sensible regulation.

2110 And I agree with you, Congressman, that you don't want to
2111 throw out 230, and you don't want to move too fast in this space
2112 and have unintended consequences.

2113 There has been many, many wonderful things from technology,
2114 and we have to think carefully and thoughtfully how modest change
2115 can help us get out of the mess that we are in today.

2116 Mr. Kinzinger. Well thank you. And I have another question
2117 that I will submit for the record. And I yield back.

2118 Mr. Doyle. I see the gentleman's time has expired. Thank
2119 you. Thank you, Mr. Kinzinger. The chair now recognizes the
2120 gentlelady from Florida, Ms. Castor, recognized for five minutes.

2121 Ms. Castor. Well thank you, Mr. Chairman. Hey, our
2122 witnesses have been terrific today. So thank you very much, all
2123 of you.

2124 I would like to ask, if the liability shield under Section

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2125 230 were eliminated today, what practical changes would the tech
2126 platforms like Facebook make? What would we see happen? I will
2127 start with Ms. Collins-Dexter.

2128 Ms. Collins-Dexter. Sorry. Could you say that one more
2129 time?

2130 Ms. Castor. If the liability shield under Section 230 were
2131 eliminated today, what practical changes would we see tech
2132 platforms like Facebook make?

2133 Ms. Collins-Dexter. Yes. You know what? I honestly don't
2134 know, and this is part of the reason why I think we need to have
2135 this conversation in a broader context, one about general
2136 corporate responsibility and corporate concentration, and two,
2137 around like understanding what the research is telling us about
2138 230. I know that it is time to have a serious conversation around
2139 230 for sure.

2140 But in terms of like privacy protections and a number of
2141 other factors, you know, blow torch to 230 before we have actually
2142 had a chance to talk about that is important and I know that Mr.
2143 Overton --

2144 Mr. Overton. Yes, let me just comment.

2145 Ms. Castor. Mr. Overton? Yes.

2146 Mr. Overton. Sure. Let me just chime in for a moment.
2147 We really do need 230, and we need some form of 230 for a couple
2148 reasons.

2149 One, we want Black Lives Matter. We want the Tea Party.

2150 We want a variety of grassroots organizations to be able to
2151 participate and post their material without fear that the
2152 platforms feel like they are going to be sued, right?

2153 So 230 is important in terms of facilitating the speech of
2154 grass roots folks. It is an important provision, right? But,
2155 like we said, these are problems and there need to be some tweaks
2156 here.

2157 It is also important in terms of the original purpose was
2158 to facilitate content moderation, this notion that you are not
2159 responsible for every single thing that goes up. And again, as
2160 a result, you can have a lot of different voices up.

2161 But again, if you are discriminating and using your
2162 algorithms to make money, to, you know, target employment ads
2163 toward whites and away from Latinos, that is a problem.

2164 Ms. Castor. But it is worse than that. It is worse than
2165 that though, with the proliferation of child pornography and other
2166 illicit behavior. It goes beyond just the debate, you know, under
2167 free speech and the First Amendment. There is a lot of illicit
2168 activity that these tech platforms have used that liability shield
2169 to shield themselves.

2170 Mr. Overton. That is absolutely right, and that is why I
2171 say hey, we should think about reform rather than just -- I think
2172 your initial point was let's just kind of blow it up or, you know,
2173 what would happen if we repealed it completely, right?

2174 And I do think that there is a problem with just absolute

2175 complete repeal, not just to the tech companies but to average
2176 citizens in our democracy.

2177 Ms. Castor. Mr. Fried?

2178 Mr. Fried. And I agree. Yes, I agree. But there is some
2179 good news here, which is the benefits of 230 come from (c)(2).

2180 It comes from the safe harbor for content moderation, right?

2181 We wanted -- we didn't want Prodigy to be punished for
2182 stopping child predators. We didn't want Prodigy punished when
2183 it tried and missed something.

2184 So we can keep (c)(2). The problem is (c)(1), which says
2185 you don't have to do any of that. So my proposal is let's put
2186 that duty of care back in place. Let's keep (c)(2), which keeps
2187 the internets and the platforms as an avenue of free expression.

2188 But let us tweak (c)(1) so that they actually have to own that.

2189 They actually have to exercise a duty of care to stop the illicit
2190 stuff in exchange for that. That gets us the best of both worlds.

2191 We stop the illegal activity, but we keep the platform for free
2192 expression.

2193 Ms. Castor. And Mr. Farid?

2194 Mr. Farid. Thank you. We have an interesting experiment
2195 that had been played out in Germany over the last few years with
2196 the NetzDG law which was addressing hate speech, terrorism, and
2197 extremism.

2198 And what happened is when the Germans passed very strict
2199 laws on takedown, what happened is that the companies ramped up

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2200 their human moderators and they ended up doing a good job.

2201 They started -- they just said, look, now the law mandates
2202 this with penalties up to 50 million euros for each failure, and
2203 guess what? They ramped up. They started getting better
2204 moderators, better technology, and the law actually worked.

2205 So we have a good existence of proof that we can actually
2206 do better.

2207 Ms. Castor. Thanks to all of you. I will yield back.
2208 Thanks.

2209 Mr. Doyle. Thank you. The gentlelady yields back. It now
2210 gives me pleasure to introduce my friend and fellow suffering
2211 Pittsburgh Pirate fan, Mr. Bilirakis for five minutes.

2212 Mr. Bilirakis. We haven't lost a game yet, Mr. Chairman.

2213 [Laughter.]

2214 Mr. Doyle. That is because we haven't played yet.

2215 Mr. Bilirakis. You are right. We have a good shot with
2216 this short season though. Okay. We will get back to business.
2217 I want to thank the witnesses.

2218 Mr. Fried, as both Representative McKinley and I have
2219 passionately called on in past hearings, we have seen
2220 advertisements for the sale of illegal drugs on social media
2221 websites.

2222 As we know, there are two types of ad groups online: one,
2223 a private negotiation between the platform and the advisor, the
2224 other where the advisor is the winner of a bid or for immediate

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2225 available ad space where the platform is less connected to the
2226 transaction.

2227 And this is the question. How, if at all, can Section 230
2228 be retrofitted to fairly provide platform accountability for
2229 advertisements of illegal products in both these circumstances,
2230 or is there another method to address this very serious problem?

2231 Mr. Fried. And I think --

2232 Mr. Bilirakis. For Mr. Fried.

2233 Mr. Fried. Sure. Thank you, Congressman. I think if we
2234 fix 230 (c)(1) and recreate the duty of care, we will make a lot
2235 of progress, right, because then there actually is an incentive
2236 to solve the problem and there is a legal consequence for failing
2237 to.

2238 If a nightclub doesn't do enough to stop the peddling of
2239 drugs in its nightclub, it can be culpable. But in the same
2240 scenario, a platform cannot because of (c)(1).

2241 So I think we need to recreate that duty of care, and this
2242 applies to all the horrors that we see on the Internet, whether
2243 it is illicit drugs, peddling of child pornography, cyber-crime,
2244 fraud.

2245 There is a lack of a legal incentive that applies to everybody
2246 else who is not an online platform, whether a traditional media
2247 or even just brick and mortar retail. And we need to write those
2248 incentives. We can save (c)(2) so we get the free expression.

2249

2250 But if we recreate that duty of care just to require
2251 reasonable action and let there be scrutiny. Right now, we don't
2252 have to take the word of everybody else.

2253 But we have to take the word of the platforms. They may
2254 be doing a good job. In fact, often they are. But there is no
2255 scrutiny of that, and that is why we need to fix the incentive.

2256 Mr. Bilirakis. Thank you. My next question, again for Mr.
2257 Fried -- Section 230 (c)(2), as you mentioned in your written
2258 testimony and then also here, states that: "A provider is
2259 protected from liability for any action voluntarily taken in good
2260 faith to restrict access to or availability of material that the
2261 provider or user considers to be obscene or otherwise
2262 objectionable," and that is a quote here.

2263 That is an exceptionally wide protection. What is your
2264 opinion -- in your opinion, what would be required for a provider
2265 to fail that standard under the current language, and are you
2266 aware of any real-world solutions where the standard was not met?

2267 Again, for Mr. Fried.

2268 Mr. Fried. Sorry, I am having a little mic trouble. Can
2269 you hear me?

2270 Mr. Bilirakis. Yes, I can.

2271 Mr. Fried. So when we are talking about speech, we do have
2272 to be a little more concerned, as Mr. Walden pointed out, about
2273 the First Amendment. But there may be some value in the
2274 good-faith provision, right?

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2275 So if it is clear -- Section 230 is meant to protect
2276 consumers, right? So an effort to protect consumers done in good
2277 faith is fine. But if there is evidence, and it would take
2278 evidence -- but if there is evidence that there is a pretextual
2279 use of content moderation, it is not really to help consumers
2280 but that it is being used as a pretext for some other motive,
2281 then you might have a court say well okay, 230 doesn't apply.

2282 There are starting to be some discussion of that. It is
2283 not always a clear discussion of good faith. But I would look
2284 for a discussion of that; what is pretextual rather than
2285 protecting consumers? That may be a place to explore. That way
2286 you don't worry about regulating speech.

2287 Like if it is clear that that -- there is evidence that is
2288 not what they are doing is protecting consumers, then maybe they
2289 don't get the defense of 230.

2290 Now that doesn't mean that they are necessarily culpable
2291 for anything. It just means that they have lost their liability
2292 shield. They still would have had to engage in something illicit.

2293 But at least you can have that conversation -- have they done
2294 something, have they violated a contract, have they violated a
2295 law without using 230 as a shield when they are not really
2296 protecting the consumer.

2297 Mr. Bilirakis. Thank you very much. Mr. Chairman, I will
2298 yield back my 35 seconds. Appreciate it very much. I thank the
2299 witnesses as well.

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2300 Mr. Doyle. I thank the gentleman. It gives me now pleasure
2301 to introduce the gentleman from the great state of California,
2302 Mr. McNerney, for five minutes.

2303 Mr. McNerney. I thank the chairs and the ranking members
2304 and the panellists. This is a great hearing and great engagements
2305 on both sides of the aisle. So thank you all.

2306 Last year I sent a letter to Mr. Zuckerberg expressing
2307 concerns about the potential conflict of interest that Facebook
2308 faces between their bottom line and addressing the spread of
2309 political disinformation on their platform. I asked specific
2310 questions focusing on Facebook's handling of disinformation.

2311 But they did not answer my questions. I also asked Facebook
2312 some of these questions again when they testified before the
2313 committee earlier this year. Still they refused to answer my
2314 questions.

2315 Professor Farid, you spent a lot of time looking into these
2316 issues and working with communities to understand -- with the
2317 companies to understand their practices. What is it that they
2318 are hiding?

2319 Mr. Farid. Mark Zuckerberg is hiding the fact that he knows
2320 that hate, lies, and divisiveness are good for business. He is
2321 hiding the fact that content moderation is bad for business, and
2322 so he props up these phony arguments to hide behind.

2323 And I think Mark Zuckerberg is hiding the fact that his entire
2324 business model of maximizing engagement and maximize advertising

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2325 dollars just stinks. It is bad for us as individuals. It is
2326 bad for society, and it is bad for democracy, but it is awfully
2327 good for his bottom line to the tune of \$70 billion last year.

2328 I continue to argue that the core business model is the poison
2329 here. When you are in the attention-grabbing ad-driven business,
2330 your job is to keep people on the platform for as long as possible,
2331 and we know that hate, divisiveness, outrageous, and
2332 conspiratorial drives business, and he knows this and he is
2333 profiting off the back of us as individuals, societies, and
2334 democracies, and I think we should hold him accountable for that.

2335 Mr. McNerney. Thank you. That was a pretty strong
2336 statement, Professor. I appreciate it.

2337 Spencer Overton, thank you for presenting this morning.
2338 Some Republicans in Washington have made demonstrably false
2339 allegations of anti-conservative bias on social media. But as
2340 the representative from Stockton, California, the most racially
2341 diverse city in the country, my concern is really about protecting
2342 the rights of all citizens to vote.

2343 Professor, can you talk about some of the tactics that have
2344 been used to suppress votes of black people and people of color
2345 on social media platforms? Also, with just 131 days to go before
2346 the general election, what tactics are you concerned about that
2347 will be used leading up the November election?

2348 Mr. Overton. Yes, thank you very much. And just to be
2349 clear, I don't think that we can equate content moderation, which

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2350 is debatable, with voter suppression. I think that they are just
2351 very different things. So to kind of have some false neutrality
2352 like they are the same thing is wrong.

2353 This targeting, targeting of messages at particular
2354 communities is a primary device. So we see that. We saw that
2355 in 2016. We are seeing it in 2020.

2356 Certainly messages about, you know, extensive fraud can
2357 certainly discourage people from participating and engaging, or
2358 messages that, hey, we are going to have law enforcement at every
2359 polling place. A variety of messages like that can certainly
2360 discourage participation, especially when they are targeted at
2361 particular communities.

2362 Mr. McNerney. Well thank you. Professor Farid has already
2363 addressed the question of what action the platforms could be
2364 taking and talked about the need for advertisers to act. I would
2365 like to hear from the other witnesses, starting with Ms.
2366 Collins-Dexter.

2367 What are some of the steps that social media platforms could
2368 be taking right now that they are currently -- that they aren't
2369 taking to combat the spread of disinformation on their platforms?

2370 Ms. Collins-Dexter. Thank you. So I think there is a lot
2371 to be said around the recommendations that folks have mentioned.

2372 Often when you are recommending other sources it can take you
2373 down a dark rabbit hole, and we have seen that a couple of times
2374 with increased recommendations of white supremacists.

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2375 I think there needs to be stuff fixed around the content
2376 moderation. I think we need permanent civil rights
2377 infrastructure that exists in the executive level in the C-Suite
2378 working with Mark Zuckerberg. I think it is critically important
2379 that we see civil rights not as a partisan issue, but one that
2380 has implications across the board and that there is someone there
2381 that represents those interests.

2382 Mr. McNerney. Well, thank you. Professor Overton, in 17
2383 seconds?

2384 Mr. Overton. Yes. Civil rights -- it is not partisan.
2385 It is a bipartisan issue. Facebook has kind of created this false
2386 dichotomy of like conservatives versus civil rights. That is
2387 completely wrong. People in both parties are committed to civil
2388 rights, and you know, we need to stay firm with that.

2389 Mr. McNerney. Thank you. I ran out of time, Mr. Chairman.

2390 Mr. Doyle. The gentleman's time has expired. I thank the
2391 gentleman. I see my good friend, Mr. Johnson, appears to be in
2392 an automobile, hopefully in the passenger seat.

2393 So Bill, you are recognized for five minutes and keep your
2394 eyes on the road if you are not in that passenger seat.

2395 Mr. Johnson. Yes, I am an IT guy, Mr. Chairman, and I can
2396 multitask. So I am good.

2397 Mr. Doyle. Okay.

2398 Mr. Johnson. But I am in the passenger seat. Thank you
2399 very much. Hey, you know, it frustrates me when I hear these

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2400 tech companies like Facebook and Google and Twitter and others
2401 hide behind the excuse that it is their algorithms that are making
2402 these decisions about the content that they serve up to the
2403 American people.

2404 Look, I have got two degrees in computer science. We have
2405 talked about this before in other hearings. Algorithms are logic
2406 constructs that are built by humans, and the computers are told
2407 what to do. They don't dream this stuff up on their own.

2408 And I also get frustrated because, you know, one of the main
2409 reasons that these technology platforms have been able to be as
2410 prolific and as powerful as they are is because they haven't been
2411 regulated, and in the absence of regulation it takes the notion
2412 of social responsibility even that much higher to self-police.

2413 So Mr. Fried, in your testimony, you talk about how the tech
2414 industry is one of the only sectors that not only is free from
2415 regulation before the fact, but they're also free from judicial
2416 scrutiny after the fact. Instead Congress has delegated the
2417 oversight authority to these tech companies to the actual tech
2418 companies themselves to self-regulate.

2419 How has this balance been struck in other related industries
2420 like the newspaper or broadcast industries, and what has been
2421 the effect of that balance?

2422 Mr. Fried. You know, ordinarily it is one or the other.
2423 If you are regulated, ordinarily you might have some limited
2424 immunity for the regulated activity because your business model

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2425 has been restricted.

2426 If you are not regulated, then ordinarily you are held
2427 culpable if you make a bad decision in designing your business
2428 model. The platforms have the best of both worlds.

2429 Now, the traditional media, right, still have a duty of care.

2430 In the New York Times v. Sullivan case, for example, the Supreme
2431 Court very importantly said there are First Amendment protections
2432 in holding a media defendant liable when there is a public official
2433 who is bringing a libel suit.

2434 But even in that case, they are subject to a knowledge or
2435 reckless disregard standard. So if they don't do their due
2436 diligence and are reckless or have knowledge of falsity, they
2437 can still be held culpable under a standard of care. They put
2438 a lot of effort into their fact checking to avoid that sort of
2439 culpability, and of course, if it is not a public figure there
2440 is even more potential culpability because it is not that high
2441 of a standard.

2442 But in a case where a platform knowingly or is recklessly
2443 disregarding falsity, they still can't be held culpable and that
2444 gives them an advantage because they can avoid the ordinary costs
2445 of business in avoiding harm.

2446 [Pause.]

2447 Mr. Johnson. Well I think I have lost my sound. Mr.
2448 Chairman, I yield back the remainder of my time. I apologize.
2449 I don't know why but I can't -- I can't hear anything.

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2450 Mr. Doyle. You know what? We can hear you, Mr. -- we can
2451 hear you, Mr. Johnson.

2452 Mr. Johnson. Can you hear me?

2453 Mr. Doyle. You still have a minute and 25 seconds.

2454 Mr. Johnson. Okay. Well here goes. My last question
2455 then, you know, and I appreciate what Mr. Fried just said.

2456 We have seen instances where -- beyond the platforms for
2457 third-party information distribution to instead acting as content
2458 providers. And I agree with Mr. Fried, you can't -- you can't
2459 be both.

2460 So Mr. Fried, as edge platforms make this move from neutral
2461 bulletin boards of the 1990s to playing an active role in
2462 moderating content, has Section 230 given these platforms a leg
2463 up, an advantage among their media industry competitors?

2464 Mr. Fried. I think so. They don't have to be as sensitive
2465 to misinformation, to defamation. They avoid costs that every
2466 other responsible media organization has to be very concerned
2467 about, right.

2468 They are pushing data. They are not worried as much about
2469 curating content, and that gives them an advantage.

2470 Mr. Johnson. Yes. I agree with you totally. Mr.
2471 Chairman, in spite of my technical malfunction I will yield back
2472 a total of 15 seconds. Thank you.

2473 Mr. Doyle. Okay. I thank the gentleman. Now it gives me
2474 pleasure to introduce Vermont's most popular congressman, Peter

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2475 Welch. Mr. Welch, you are recognized for five minutes.

2476 Mr. Welch. Thank you, Mr. Chairman. I am going to start
2477 with a reference to two of my colleagues, Mr. Kinzinger and Mr.
2478 Johnson and what he just said.

2479 Mr. Kinzinger asked the question as to whether it is time
2480 to pull the plug and to say that Congress has to act on Section
2481 230, and that would be Congress making decisions about what a
2482 duty of care is and making a decision whether to provide
2483 regulations or authority to oversee that.

2484 But in my view (audio interference), ask the witnesses for
2485 namely to establish (audio interference), or can we continue
2486 to leave that self-policing of the various platforms.

2487 Ms. Collins-Dexter, just very briefly?

2488 Ms. Collins-Dexter. Yes. If I understand you, I think you
2489 are saying more -- whether or not we should do regulations. Are
2490 you --

2491 Mr. Welch. Law and regulation.

2492 Ms. Collins-Dexter. Yes, we absolutely need it. I think
2493 it is important that --

2494 Mr. Welch. I just want to go through this really quickly.
2495 So and Mr. Farid?

2496 Mr. Farid. Absolutely. We have been waiting for years,
2497 Congressman, for the tech industry to self-regulate, and they
2498 haven't. So we have to make some changes.

2499 Mr. Welch. Okay. And Mr. Fried?

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2500 Mr. Fried. Don't eliminate 230 but fix it.

2501 Mr. Welch. Okay. And Professor Overton?

2502 Mr. Overton. Yes, we need some changes.

2503 Mr. Welch. I am going to characterize something that I think
2504 is what I am seeing in the situation. You have a case like --
2505 the typical defense from the tech companies about, quote,
2506 "interfering," as they put it, with Section 230. It is 230 they
2507 cite.

2508 And this committee years ago was the author of Section 230.

2509 It has made us the biggest internet success in the world. Now
2510 Mr. Zuckerberg's argument is essentially, look how rich I am.

2511 That is how successful Section 230 is. But the casualty more
2512 and more is democratic discussion and democratic debate, and this
2513 is where I want to go to Mr. Johnson.

2514 The Zuckerberg defense is that he doesn't want to monitor
2515 speech. But as a number of you have said, and Mr. Johnson pointed
2516 out, the algorithm is something they control, number one, and
2517 number two, as Professor Overton pointed out, it is not about
2518 speech. It is about peddling the conflicting content that will
2519 most -- get the most hits and produce the most money.

2520 Can each of you comment as to whether you see that as an
2521 ongoing threat to our democratic debate and dialogue? And I will
2522 start -- I will start with you, Mr. Fried.

2523 Mr. Fried. Was that Fried or Farid? If it was Fried, I
2524 would say fix the incentives and the rest will --

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2525 Mr. Welch. Pardon me?

2526 Mr. Fried. I would say fix the incentives and the rest will
2527 fix itself. We don't need to regulate them. We just need to
2528 give them the same incentive everybody else has to moderate their
2529 content, protect consumers, and know that if they are reckless,
2530 they are going to be culpable.

2531 Mr. Welch. Right. Mr. Farid?

2532 Mr. Farid. You are absolutely right, Congressman. They
2533 control the algorithms. They have designed the algorithms to
2534 promote the hate and the divisive and the conspiratorial, and
2535 they can optimize it differently. They just need the right
2536 incentives, whether that is regulatory, advertising, or
2537 conversation-based.

2538 Mr. Welch. And let me go on to Professor Overton. The
2539 question I think many of us have and my colleague, John Sarbanes
2540 has raised this before, can Section 230 freedom for these
2541 platforms to do anything they want where the algorithms about
2542 intensifying division coexist with decent democratic debate, or
2543 does one have to become the casualty of the other?

2544 Mr. Overton. Well so far one has become the casualty to
2545 the other, and part of the problem here is that the platforms
2546 have not taken the steps they need to protect civil rights.

2547 They have the authority. They have the power. They haven't
2548 used it effectively. They haven't responded here. So that is
2549 the problem. And in light of that, you know, I do believe that

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2550 the status quo is untenable.

2551 Mr. Welch. All right. I thank you very much for this
2552 excellent hearing. I yield back, Mr. Chairman.

2553 Mr. Doyle. Okay. I thank the gentleman for yielding back.
2554 Now let's see now who is next. The chair recognizes Mr. Flores
2555 for five minutes.

2556 Mr. Flores. Thank you, Mr. Chairman, and I thank you for
2557 hosting this hearing.

2558 Mr. Fried, thank you for appearing here today and for your
2559 thoughtful testimony, and particularly -- in particular, I
2560 appreciate your sensitivity to preserving First Amendment rights
2561 in the context of suggesting practical and effective solutions
2562 to the spread of disinformation.

2563 As you succinctly observed earlier, Section 230 was created
2564 to, quote, "one, help a nascent online industry to develop into
2565 a form for user-generated content, and two, to stem the growing
2566 state of harmful behavior on the Internet," unquote.

2567 You know, I think we can all agree it has succeeded beyond
2568 all expectations on the first goal, to grow the industry, but
2569 it has fallen woefully short of stemming harmful behavior, for
2570 the second part.

2571 You have recommended recalibrating Section 230 to restore
2572 duty of care by requiring Internet platforms to take reasonable
2573 good-faith steps to prevent illicit use of their services as a
2574 condition of receiving Section 230's protection. In other words,

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2575 holding the platforms accountable when they act with negligent,
2576 reckless, or wilful disregard.

2577 Can you elaborate on what restoring a duty of care looks
2578 like in practice, and how that becomes operational? In other
2579 words, what is the dynamic that makes this approach successful?

2580 Mr. Fried. So it is all about incentives. I think a number
2581 of the witnesses have talked about it. Every other nonplatform
2582 has the duty, right? If they let their facilities be used to
2583 harm another and don't take reasonable steps, they can be held
2584 accountable. That is really what we want.

2585 No one can question them right now when they say, we have
2586 done enough. We are being reasonable. And again, in many cases
2587 they may be, and they will be vindicated when they are.

2588 But when they are not, and you can't question it, victims
2589 are left with no remedy. Often they can't even get discovery
2590 because as soon as the court says, oh, sorry, it is, you know,
2591 a content moderation issue, you can't even question whether the
2592 platforms are being responsible, are they being reckless, are
2593 they in wilful disregard of a lot of awful stuff happening on
2594 their platform?

2595 If you create that duty of care you solve that problem, but
2596 you keep the great stuff that has made the platform so big. It
2597 is the content moderation safe harbor to promote free expression.
2598 That is the good part. That is what I think everyone wanted.
2599 That is what Congress wanted to do to address the Prodigy case,

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2600 to help the good actor, the Good Samaritan.

2601 Unfortunately, (c)(1) protects the Bad Samaritan.

2602 Mr. Flores. Let's dig a little bit further into this. How
2603 do we determine what constitutes a reasonable good-faith effort
2604 to prevent illicit use, and can you provide an example of a model
2605 to illustrate? That would be very helpful.

2606 Mr. Fried. Sure. The reasonableness is not hard. That
2607 is the standard everybody lives on if you are not under -- if
2608 you are not a platform, right.

2609 So if you are acting negligently or recklessly, you can be
2610 held accountable. You don't really have to define that. There
2611 is plenty of precedent on that.

2612 The good faith is a little more of a challenge. But, again,
2613 I think the key there -- and, again, we have to be careful because
2614 that -- the good-faith provision tends to come up more in a speech
2615 context than in an illicit activity context. But are they really
2616 trying to moderate to protect consumers, or is it a pretext?
2617 Are they using the claim of content moderation not to protect
2618 to consumers but to accomplish some other objective? If there
2619 is evidence of that, then you can actually say okay, let us strip
2620 away the protection of 230 because this is not about protecting
2621 consumers.

2622 This is not being done in good faith. Then you have to ask
2623 the second question, which is: have they really done something
2624 illicit? They may not have. If it is a pure speech issue, even

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2625 if they don't get protection of 230, the First Amendment will
2626 protect them. It is: have they violated some other duty?

2627 Once you get rid of the 230 protection, then you can ask
2628 that question. Many times they won't have violated a duty.
2629 Unfortunately, there are cases where I think they are violating
2630 that duty. That is the incentive we need to fix.

2631 Mr. Flores. Okay. By the way, it is great to have you join
2632 us with the committee again today, and I yield back the balance
2633 of my time.

2634 Mr. Fried. Thank you.

2635 Mr. Doyle. Okay. Thank you, Mr. Flores. He yields back.
2636 The chair now recognizes the gentleman from California, Mr.
2637 Cardenas, for five minutes. You need to unmute, Tony.

2638 Mr. Cardenas. Okay. Got it. Thank you very much, Mr.
2639 Chairman. I appreciate this opportunity. And Ranking Member
2640 -- chairman and ranking members to -- and women to have this
2641 important hearing.

2642 The issues that come to mind to me for Americans is that
2643 we have a lot of major problems going on today, and Americans
2644 don't know who to believe or where to get their information and
2645 what to believe.

2646 So people are confused about what is news and what is
2647 commentary. The leaders of this nation have had an inherent level
2648 of credibility in the hearts and minds of Americans for
2649 generations, and that is a good thing.

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2650 We have a big problem when we have a President who is misusing
2651 his access to the loudest megaphones in the land, and by virtue
2652 of megaphone and his affinity for making false claims and the
2653 biggest transmitter of misinformation and disinformation in
2654 conduct.

2655 According to one database, as of April 3rd, 2020, President
2656 Trump has made 18,000 false or misleading claims during his time
2657 in office. Even if they only have that half right, you are still
2658 approaching 10,000 times of the most powerful person in the world
2659 giving misleading or misinformation.

2660 We all know a few of the most recent claims: the use of
2661 hydroxychloroquine to cure the coronavirus, which the FDA has
2662 now said not to use because it -- because the medicine has failed
2663 in several clinical trials.

2664 Or the constant rhetoric of a Hispanic invasion. He has
2665 used this word at least two dozen times when referring to Latinos
2666 and Latina immigrants or asylum seekers.

2667 Even after a shooter killed 20 people in El Paso this fall
2668 and referenced a Hispanic invasion, Trump warned yet again of
2669 a looming invasion and claimed without any evidence whatsoever
2670 that a caravan of migrants headed to the border had been
2671 infiltrated by gang members.

2672 He even sent U.S. troops to the border, insisting that the
2673 operation was necessary to keep our country safe. But after the
2674 election was over, there wasn't another peep about an invasion

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2675 and our troops were quietly called back. When the public reacts
2676 in horror to what he tweets, sometimes he and his staff walk things
2677 back and say he was just kidding.

2678 Well, of course the American people are confused. More than
2679 just confusing, disinformation and misinformation are harmful
2680 -- are things that are harmful to the people of this great nation
2681 when they come from a supposed leader and can have even more
2682 dangerous consequences for marginalized communities.

2683 Ms. Collins-Dexter, in your testimony you mentioned
2684 disinformation campaigns that have used social media to inflame
2685 racial divisions and hostilities in America, and we all know the
2686 president loves to use inflammatory rhetoric, however inaccurate,
2687 to sow hate and discord between Americans.

2688 Can you explain the long-term and short-term consequences
2689 and impacts of disinformation and misinformation that come from
2690 the President on disenfranchised and underrepresented
2691 populations?

2692 Ms. Collins-Dexter. Thank you. Thank you, Congressman.
2693 Those are different issues here. There is one of safety of
2694 people offline. We have seen an increase of white nationalist
2695 hate crimes carried out against different -- Latinx, Asian, black
2696 communities, Muslim communities -- and part of that stems from
2697 what we are seeing in closed groups.

2698 Also, voter suppression, as Dr. Overton has talked about.
2699 We have seen a lot that. It has been -- we talked extensively

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2700 about black attacks. It has actually been woefully underreported
2701 how much disinformation around voting has been targeted to Latinx
2702 communities and actually was targeted through the Russian and
2703 troll farms.

2704 And so there is a number of ways in which these leave
2705 fractures in our democracy and ability to live that come from
2706 disinformation online being unregulated by figures, particularly
2707 those that are validated with Blue Checks by their name.

2708 Mr. Cardenas. Thank you. And to some of our panellists,
2709 if you could explain Section 230, being that some of these
2710 platforms are now the largest corporations in America apparently
2711 having revenues in the tune of tens of billions of dollars a year,
2712 are they adhering to 230 correctly when it comes to the possibility
2713 of interfering with their revenue?

2714 In other words, do they have enough resources to be more
2715 technology adherent and also hire more individuals so that they
2716 can actually do their due diligence and adhere to the spirit of
2717 230 while still having -- giving themselves the opportunity to
2718 continue their business model?

2719 [Pause.]

2720 Mr. Cardenas. Okay. No panellists have an opinion about
2721 whether or not it is a shortage of resources for companies like
2722 Facebook and others.

2723 Okay. All right. Well --

2724 Mr. Farid. Congressman, I don't think it is a shortage of

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2725 resources. When Facebook makes \$70 billion a year, this is not
2726 a resource problem. This is a priority problem.

2727 Mr. Cardenas. Thank you. Thank you, Mr. Chairman.

2728 Mr. Doyle. The gentleman's time has expired.

2729 Mr. Cardenas. Okay. Thank you so much. I yield back.

2730 Mr. Doyle. Thank you.

2731 Chair now recognizes Mrs. Brooks for five minutes.

2732 Mrs. Brooks. Thank you, Mr. Chairman, and thank you so much
2733 for this incredibly important hearing.

2734 I want to talk about the practical aspects. When we had
2735 Mark Zuckerberg testify before our committee now a couple of years
2736 ago, I actually asked him the question about promulgation of
2737 terrorist messaging.

2738 I had a constituent who actually had been beheaded by ISIS.
2739 I asked -- I am a former U.S. Attorney and prosecuted many child
2740 exploitation cases and talked about still the proliferation of
2741 child exploitation over the internet, and he talked about the
2742 number of content moderators that the company had hired and they
2743 were hiring more.

2744 Dr. Farid, I would like you to talk a little bit about the
2745 practical aspects of how content moderators work, and I believe,
2746 Dr. Collins-Dexter, you might have mentioned that content
2747 moderators are often not in this country. I was not aware of
2748 this.

2749 Could both of you, quickly, talk about how the platforms

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2750 actually use content moderators. And then also I have recently
2751 heard that they sued these platforms because of, really, horrific
2752 kind of -- the type of work that they do.

2753 So I am very concerned about this.

2754 Mr. Farid. I think you are right to be concerned,
2755 Congresswoman. So first of all, most of the moderators, the vast
2756 majority, are not employees of Facebook. They are third-party.
2757 They go through vendors.

2758 There have been horrific stories of their misuse. They are
2759 underpaid. They are overworked. They have PTSD within weeks
2760 of working because they are looking at the absolute worst and
2761 horrific content that you can't even imagine online and they are
2762 not given the mental health issues or the resources to deal with
2763 it.

2764 Facebook has outsourced some of the ugliest work that they
2765 have to do and I think they should be ashamed of themselves for
2766 that. The fact is they don't have enough moderators.

2767 They are very happy to trot out the number of moderators,
2768 but the reality is these moderators are spending fractions of
2769 a second looking at a piece of content and having to look at that
2770 for eight, ten hours straight, day after day after day. These
2771 are horrific working conditions, and that is why some of the really
2772 good investigative journalists have called out these companies
2773 for horrific treatment of this.

2774 I can tell you, having worked in the child sexual

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2775 exploitation space that when the National Center for Missing and
2776 Exploited Children or the Canadian Center for Child Protection
2777 does content moderation, they limit greatly limit to only a few
2778 hours a day what moderators will see.

2779 They have mental health issues. They have breaks. They
2780 take care of the people who are doing the dirty ugly work, and
2781 Facebook is simply not doing that.

2782 Mrs. Brooks. Thank you, and I must say that because I was
2783 a prosecutor in these types of cases, I did witness some of this
2784 and it is horrific, and so thank you for your time.

2785 But what -- we have to have content moderators, and is your
2786 suggestion that through either more reporting, more transparency,
2787 that the country, the world, understand what is being allowed
2788 on these platforms?

2789 Mr. Farid. What we should be moving to, first of all, is
2790 not doubling but quadrupling ten-factor moderators so they can
2791 spend less and less time looking at this material to minimize
2792 the harm, and at the same time we should be deploying technology
2793 to mitigate the content that human moderators have to look at.

2794 The goal should be you're always going to need human
2795 moderators to make the difficult calls, but technology can do
2796 better and better at this. We have seen that successful in the
2797 child sexual exploitation space. But it is simply, again, an
2798 issue of investment.

2799 So we have to -- we need way more moderators than we have.

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2800 We have to treat them better. They have to have mental health
2801 issues and we need to start deploying technology in a much more
2802 effective way to minimize the harm to the human moderators.

2803 Mrs. Brooks. Thank you.

2804 I am going to shift very briefly. Dr. Collins-Dexter, you
2805 mentioned in your opening statement about the Office of --
2806 Congress's OTA. Can you -- I am on the bipartisan Committee on
2807 Modernization of Congress and we have talked about renewing
2808 Congress's, in the House, the Office of Technology Assessment,
2809 I believe.

2810 Or can you talk about what role you believe that would play
2811 or you think in order to help us move forward in these very
2812 difficult -- understanding of this type of problem? What was
2813 your recommendation there?

2814 Ms. Collins-Dexter. Yes. So, I mean, two more things on
2815 content moderation.

2816 A, when we first went to Facebook five years ago and told
2817 them about the hate speech and violent threats online, they told
2818 us that their content moderators didn't understand how racism
2819 looked in the U.S. and that is why there are false positives.

2820 So that is an issue. Also, they have cut back a lot, which in
2821 the time of coronavirus is a big deal.

2822 Shout out to my mother-in-law, who worked at the Library
2823 of Congress and was a part of this, and she did a lot of, like,
2824 bipartisan research around technology and one of the things they

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2825 said is that when they took the partisanship out of the research
2826 they were actually able to do a lot and invest in, like, innovation
2827 in communities.

2828 Mrs. Brooks. Thank you.

2829 Mr. Doyle. The gentlelady's time has expired.

2830 The chair now recognizes Congresswoman Kelly for five
2831 minutes.

2832 Ms. Kelly. Thank you, Mr. Chair, and thank you to all that
2833 are testifying today.

2834 As we have established, many people, especially young
2835 people, use social media as their primary source of obtaining
2836 news, and also as we have established, unfortunately, through
2837 COVID and recent protests there has been a lot of misinformation
2838 and disinformation.

2839 Ms. Collins-Dexter and Mr. Overton, social media platforms
2840 have used a variety of approaches to reduce disinformation on
2841 their platform: removing or down ranking this information that
2842 doesn't pass fact checking by independent organizations,
2843 up-ranking and featuring authoritative content from recognized
2844 health authorities, changing a user experience designed to
2845 introduce friction and being more transparent about the use of
2846 machine learning to moderate content.

2847 Should they be using these approaches on other topics that
2848 create similar harm such as the Census, political protests, or
2849 voting? And what other approaches should they be using now?

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2850 Either one of you can start.

2851 Ms. Collins-Dexter. Professor Overton, do you want to
2852 start?

2853 Mr. Overton. Sure. Thanks so much.

2854 Certainly, when we look at -- I know that they have fallen
2855 short in some ways with COVID here and, Dr. Farid, I defer to
2856 him. But I would also just say they have been doing a better
2857 job with COVID-19 than they have with regard to voting rights.

2858 So I would agree with you that they need to -- you know,
2859 they do a good job on obscenity. They do a good job on some others.
2860 They need to adopt some of these practices. Some of it is
2861 technology and investing in technology.

2862 Some of it changing definitions about what needs to be
2863 moderated in terms of voter suppression, in terms of
2864 misrepresentations about long lines, et cetera. That stuff needs
2865 to be included as well from a policy standpoint.

2866 Ms. Collins-Dexter. Yes, I agree. Sorry, Professor.

2867 Ms. Kelly. No, go on.

2868 Ms. Collins-Dexter. Yes. I absolutely agree. I think we
2869 have been asking them for years to make certain changes and it
2870 is mind boggling how quickly they were able to scale up in a couple
2871 weeks into when disinformation was exploding online.

2872 Unfortunately, it was a little bit late because there was
2873 a lot of black disinformation that we have been tracking. I will
2874 be releasing a report later this week around how much had travelled

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2875 before they cracked down.

2876 But I think what we see time and time again is that the urgency
2877 that they feel around other issues does not apply when we are
2878 talking about white nationalism or being anti-black
2879 disinformation.

2880 Ms. Kelly. Thank you.

2881 Professor Farid, in your testimony, you mentioned how video
2882 recommendation algorithms can accelerate disinformation and
2883 create a feedback loop.

2884 What incentive is there for social media companies to stop
2885 their current practices that is generating more eyeballs and more
2886 ad revenue, and how should companies intervene and is there a
2887 specific approach you believe a platform could take for viable
2888 content review?

2889 Mr. Farid. Good. So the first thing to understand is that
2890 on YouTube, for example, 70 percent -- seven zero -- of watched
2891 videos are those that are recommended by YouTube, not just
2892 organically you clicking on a video. So they are controlling
2893 what we see to a significant extent, number one.

2894 Number two, when, for example, YouTube was called out over
2895 and over again for not protecting children online, Disney withheld
2896 advertising dollars and then YouTube made changes.

2897 Similarly, when they started getting called out for
2898 horrific, dangerous, and deadly conspiracies, they eventually
2899 made changes. So there are real hard technological problems

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2900 here. There are difficult content moderation problems. But we
2901 have not even come close to that line yet.

2902 The issue is, as we have been talking about, is just a
2903 misalignment of incentives. So they profit with eyeballs.
2904 Conspiratorial, hateful, and divisiveness maximizes eyeballs.

2905 So unless there is a regulatory oversight, an advertising
2906 boycott, or better platforms emerge, their incentives are not
2907 there and so we have to sort of give them those incentives.

2908 Ms. Kelly. Okay. And then how should companies intervene
2909 and is there a specific approach you believe platforms should
2910 take for viral content?

2911 Mr. Farid. Absolutely. So when content, and you are
2912 starting to see this, goes viral, there needs to be human or
2913 algorithmic moderation. If something has two views, I am not
2914 worried about it right now.

2915 But when those things spike, and they know when they spike
2916 because the recommendation algorithms find them and start
2917 promoting them, they have to have extra scrutiny and that just
2918 means putting the resources to that.

2919 Ms. Kelly. Thank you so --

2920 Mr. Farid. I think -- let me just emphasize one more thing,
2921 too. You have to understand that on social media the half-life
2922 of a post is measured in hours. So this is not something you
2923 can come to a week later or a month later. You have, literally,
2924 minutes to deal with these things as they go viral because they

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2925 happen very, very fast.

2926 Ms. Kelly. Okay. Thank you so much. Thank you to all the
2927 witnesses, and I yield back, Mr. Chair.

2928 Mr. Doyle. Thank you. Gentlelady yields back.

2929 The chair now recognizes Mr. Hudson for five minutes.

2930 Mr. Hudson. Thank you, Chairman Doyle, Ranking Member
2931 Latta, Chairwoman Schakowsky, and Ranking Member McMorris
2932 Rodgers. Thank you for holding this joint hearing today, and
2933 thank you to all our witnesses for what has been an excellent
2934 discussion.

2935 The United States is a country founded on the principle of
2936 free speech and the free exchange of ideas. This is one of the
2937 principles that truly makes our nation great.

2938 However, I am disturbed by a recent trend of political
2939 censorship and liberal bias that has consumed social media
2940 platforms. Just yesterday, as has been mentioned earlier,
2941 Twitter took it upon themselves to censor another one of President
2942 Trump's tweets that opposed the establishment of an autonomous
2943 zone in Washington, D.C., similar to the one we see in Seattle.

2944 This divisiveness we are discussing here today is real.
2945 Companies are openly suggesting they support the free expression
2946 of ideas as long as they are the same as their own. This does
2947 nothing but undermine free speech and divide our nation.

2948 As we examine how online disinformation further exacerbates
2949 these issues and further divides our nation, we must realize the

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2950 far-reaching consequence of our actions and policy proposals.

2951 To be clear, deliberately misleading anyone about medical
2952 treatments or sharing false information about the COVID-19 virus
2953 is dangerous and wrong. Spreading hate speech or disparaging
2954 others based on their race is also dangerous and it is wrong.

2955 On the other hand, when we discuss reforms to the internet
2956 we must be deliberate. We cannot stifle the innovation which
2957 has given us the greatest tool the world has ever seen.

2958 Without the internet and social media, our spread of critical
2959 information related to COVID-19 would have been slowed and could
2960 have cost thousands of lives.

2961 Additionally, it was a social media post that first told
2962 the world about the death of George Floyd, and the protests and
2963 demonstrations that have followed take advantage of things like
2964 hashtags, Facebook groups, and live streaming to share with the
2965 world their message in a way that was not possible just a few
2966 years ago.

2967 Mr. Fried, a lot of testimony we have heard has focused on
2968 reforms to Section 230 of the Communications Decency Act. In
2969 your testimony, you lay out several reforms that you would like
2970 to see in order to restore the original intent of the law while
2971 protecting free expression.

2972 If Congress does go too far, in your opinion, by regulating
2973 the internet, what are some of the risks we are taking? Would
2974 we be able to have the same sort of dialogues and civic engagement

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2975 that we have come to enjoy on our social media platforms?

2976 Mr. Fried. So the good news is I am not proposing
2977 regulation, right. Regulation is usually limiting a business
2978 model in advance, saying you can't use your discretion.

2979 That is not the proposal on the table, right. What we are
2980 talking about is applying a duty of care. You have all the
2981 discretion you want in the front end. All we are saying is if
2982 you make a bad decision then you can be held culpable like every
2983 other business in America. I think that avoids the harm of
2984 regulation.

2985 We don't want to stifle innovation. We don't have to. Let
2986 them innovate. But if they innovate wrong, if they are careless
2987 and reckless, like every other business in America they should
2988 be able to be held to account. If they are doing nothing wrong,
2989 and they often aren't, everything is fine. But when they are,
2990 we can't even question it and that's it. Let us take the
2991 regulation off the table. I don't think we are going to chill
2992 innovation by holding them to the same duty of care as everybody
2993 else.

2994 We do have to be careful on speech. And so I think there
2995 we have got to be very careful. It is a lot easier when you are
2996 focusing on illicit conduct. Maybe there is some room in the
2997 good-faith requirement.

2998 If the courts give some meaning to that in a careful way
2999 about pretext, I think that can go a long in solving some of our

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3000 speech concerns.

3001 Mr. Hudson. That makes sense to me and, you know, Mr. Flores
3002 asked you about some of your ideas under your, quote, reasonable
3003 good-faith steps.

3004 But my question, I guess, would be how would that be enforced?
3005 What would that look like?

3006 Mr. Fried. I am sorry. Was that Fried or Farid?

3007 Was that for me?

3008 Mr. Hudson. That is for you. Yes, sir.

3009 Mr. Fried. Again, so every other company in America, right,
3010 is subject to a duty of care. They deal with it every day and
3011 so they take reasonable steps. This would, largely, be
3012 self-enforcing. We would be lining up incentives.

3013 If they are going to be reckless, right, if they are going
3014 to allow -- they are not going to combat the distribution of drugs
3015 over their platforms, they are not going to do what every other
3016 business does to make sure their facilities aren't misused, they
3017 will be held accountable. I don't think there is a lot to do
3018 other than to recreate the duty of care that applies to everybody
3019 else.

3020 Mr. Hudson. Thank you for that, and I am running low on
3021 time.

3022 But, Ms. Collins-Dexter, I wanted to ask you quickly,
3023 throughout your career you have worked on many successful
3024 campaigns and initiatives. Could you share with us how social

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3025 media has been utilized as a tool for your efforts as well as
3026 for some current projects?

3027 How do you think various movements that seek to change
3028 society have benefited from an individual's ability to
3029 participate through social media?

3030 Ms. Collins-Dexter. Groups have always benefited from new
3031 technologies. It is as extremely important as an opportunity
3032 for voices of the unheard to be heard whether it is through books,
3033 whether it is through media, whether it is through technology,
3034 and we have seen when left in the hands of corporations and it
3035 becomes unregulated that actually those voices end up getting
3036 drowned out more and more, and so that is part of what we are
3037 seeing now in social media.

3038 Like, as we have not been regulating these companies, more
3039 and more this idea of what free speech looks like is operating
3040 on a sliding scale where it is free for some and costly for others.

3041 Mr. Doyle. The gentleman's time has expired.

3042 Mr. Hudson. Thank you, Mr. Chairman.

3043 Mr. Doyle. I thank the gentleman. The chair now recognizes
3044 my good friend, Mrs. Dingell, for five minutes.

3045 Mrs. Dingell. Thank you, Mr. Chairman and Chairwoman
3046 Schakowsky, for holding this important hearing and the good news
3047 for all the witnesses that by the time you get to me it means
3048 you're getting close to the end.

3049 But this subject -- this is something that is very important

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3050 to me and I want to say to my colleague, Mr. Hudson, it is not
3051 just the conservatives. The unions have, in the last couple of
3052 weeks, sent a letter.

3053 Facebook has taken down the use of the word unionization,
3054 which has been very disturbing with the UAW because it was being
3055 taken down from sites where some really specific issues were being
3056 discussed. So I want my colleagues to know it is really an issue
3057 on both sides, how do we talk about it and how do we define it.

3058 And I am worried about how disinformation spreads like
3059 wildfire and I am trying to figure out how do we address it; how
3060 do we protect that free speech.

3061 But, so, for instance, I have been to many protests over
3062 the last two weeks. I don't look like someone who has been at
3063 17 of them but I have.

3064 And I have had several people come up to me. I had a
3065 constituent who was suspended from Facebook for a week for saying
3066 that people were going to die because they weren't wearing masks.

3067 And yet, somebody else who had been at that vigil had threatened
3068 with guns. She was suspended for a week and Facebook did not
3069 take down that I have guns, I can protect.

3070 There is an inconsistency here that just makes -- there is
3071 no -- you have no metrics by which to judge how they are making
3072 decisions and I would really beg to differ with that.

3073 But let me start with Ms. Collins-Dexter. Have you seen
3074 other examples of platforms not applying their terms of services

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3075 in uniform fashion and have you seen an uptick in these kinds
3076 of disparities in recent months?

3077 Ms. Collins-Dexter. Absolutely. I think, to be clear, all
3078 of the platforms have demonstrated some level of issue with
3079 applying the rules unevenly, particularly when it comes to more
3080 prominent figures.

3081 Mrs. Dingell. Mr. Farid, I can see you nodding your head,
3082 too. So --

3083 Mr. Farid. Yes. I mean, look, it is easy to pick on
3084 Facebook. They are the biggest. But all the services, from
3085 Reddit to TikTok to YouTube to Google to Twitter, they are all
3086 struggling under the weight.

3087 But it is their weight. They built these things at scale
3088 and at a speed without putting the proper safeguards in place.
3089 So they don't then get to turn around and say, well, the internet
3090 is really big. The problems are really hard.

3091 You built this mess and now you have to fix it.

3092 Mr. Overton. And Congresswoman -- I am sorry,
3093 Congresswoman. Spencer Overton.

3094 Just one thing here. You know, it is definitely debatable
3095 about content and what should be regulated, definitely, by the
3096 platforms.

3097 The issue, though, is that these are private entities and
3098 so, for example, when the President talks about free speech, you
3099 know, free speech is really about government, right.

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3100 And so if we were to, basically, say Facebook had to have
3101 everything -- they couldn't remove threats, harassment, altered
3102 video, misinformation, sexual privacy invasions, et cetera --
3103 so we definitely want transparency and more consistent content
3104 moderation.

3105 But I do think that us simply saying, hey, all of this is
3106 free speech opens the door to a lot of negative hate speech and
3107 a lot of, you know, violations of basic civil rights here that,
3108 you know, we don't want to occur.

3109 Mrs. Dingell. I agree with you and I really want -- I have
3110 one -- I have another question I want to ask and I am running
3111 out of time. But I really fear that the internet has become a
3112 tool of fear and hatred, and whenever I talk about the Second
3113 Amendment the death threats that I get that aren't taken down
3114 are sort of stunning.

3115 But, Mr. Farid, I am running out of time. Arizona has seen
3116 a spike in daily COVID cases. At the beginning of this month
3117 there were, roughly, 200 new cases per day. Today, that number
3118 is over 3,500 daily new cases.

3119 Yesterday, President Trump held an event in Phoenix, which
3120 is a new COVID hotspot. Thousands of people attended the event
3121 without wearing masks and without socially distancing.

3122 When asked why they weren't taking the precautions, they
3123 told reporters that they didn't believe the number of reported
3124 deaths, that they were overstated and they didn't believe in the

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3125 severity of the disease.

3126 Given your research, what do you make of these statements
3127 and do you believe that online platforms are doing enough to
3128 curtail the deadly and misinformation?

3129 Mr. Farid. So, first of all, I don't think they are doing
3130 enough and we have seen this. We have seen the misinformation
3131 apocalypse and we have seen it propagate down to where people
3132 are making decisions that are affecting their health and their
3133 neighbor health and those in this country, and I think that is
3134 a deadly consequence of allowing this type of misinformation to
3135 propagate through the services.

3136 Mr. Doyle. The gentlelady's time has expired.

3137 The chair now recognizes Mr. Gianforte for five minutes.

3138 Mr. Gianforte. Thank you, Mr. Chairman, and thank you to
3139 all the panellists. This has been a very good discussion.

3140 I created my business on the back of the internet in the
3141 early 2000s. We eventually grew that from an extra bedroom in
3142 our home to one of the largest employers in Montana. We have
3143 1,100 employees globally and our website had about 8 million
3144 unique visitors every single day.

3145 We are a good example that the internet has removed
3146 geographic barriers that previously prevented global businesses
3147 from operating in rural Montana and rural America.

3148 But the internet can also have negative effects. Platforms
3149 can amplify similar voices and stifle others without much clarity.

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3150 In a time when many were forced indoors, misinformation had an
3151 even more disastrous effect.

3152 I understand how important Section 230 can be, especially
3153 for a small business, which doesn't have the resources of a large
3154 one. It is an important shield that also comes with a sword.

3155 There has been concern that certain companies are using their
3156 size to stifle certain voices. I believe it might be a lack of
3157 understanding by companies, based in Silicon Valley.

3158 Back in March of last year, Missoula-based Rocky Mountain
3159 Elk Foundation reached out to my office because one of their
3160 advertisements had been denied by Google over concerns of animal
3161 cruelty.

3162 The ad featured a woman talking about growing up hunting
3163 with her dad. There were no dead animals. There was no animal
3164 cruelty. It promoted our hunting heritage. As an avid hunter
3165 and an outdoorsman myself, I know how many Montanans rely on
3166 hunting to provide for food for their families and as a way to
3167 enjoy our great outdoors.

3168 Many businesses in Montana promote hunting and fishing as
3169 it is their means to sell their outdoor sporting goods products.

3170 Will their businesses be denied the opportunity to advertise
3171 on a platform that owns a large portion of the market?

3172 Will they have to reach out to their member of Congress every
3173 time there is a, quote, misunderstanding? While there have been
3174 some troubling examples, I have appreciated the quick response

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3175 and willingness to engage from these platforms. We got the
3176 problem fixed. It just took a lot of work.

3177 It is difficult to regulate a dynamic industry and hastily
3178 rushed to draft legislation could have more unintended
3179 consequences than solutions.

3180 Mr. Fried, in your testimony you pointed to ways we can work
3181 together for a solution. I am interested in what effect you think
3182 over prescriptive legislation -- what sort of negative impacts
3183 would overly prescriptively legislation have on this sector?

3184 Mr. Fried. I think that was me so --

3185 Mr. Gianforte. Yes.

3186 Mr. Fried. -- if that was for me I will continue.

3187 Mr. Gianforte. Yes.

3188 Mr. Fried. I really am not advocating regulation. We want
3189 all the experimentation. We want business models like the ones
3190 you talked about for your business. That is the innovation,
3191 right. And so to get the experimentation by not regulating, you
3192 get protection for free expression from the safe harbor of (c)(2).

3193 But what we need to do is just say innovate, experiment,
3194 but know that you are going to be held accountable for your own
3195 decisions. Every other business does that. It is just -- it
3196 is personal responsibility. It is business responsibility.
3197 That will solve a lot of this. We don't have to be prescriptive.

3198 And the other beauty of this is you don't have to come up
3199 with different legislative solutions for every single ill on the

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3200 internet. If you line up the incentives the platforms will solve
3201 their own problems because they don't want to be sued, right.

3202 That is what every other business does.

3203 We don't have to decide there is a solution for this and
3204 a solution for that. Make them accountable for their own actions
3205 like every other business is.

3206 Mr. Gianforte. Okay. Thank you.

3207 And just as a follow-on to that, Montana is a small business
3208 state. Innovation often happens in these small businesses.

3209 I am concerned as we look at public policy here that as small
3210 businesses compete with large businesses that -- and I understand
3211 your concept of duty of care -- how should that apply differently
3212 for small businesses versus large business so we don't stifle
3213 -- the duty of care doesn't create a duty of burden so big that
3214 small companies can't actually innovate?

3215 Mr. Fried. So the great news is it already is sort of --
3216 it solves its own problem. Reasonableness is a flexible
3217 standard, and certainly a large company with lots of resources,
3218 what is reasonable for that company is different than what is
3219 reasonable for a small company, right.

3220 So the reasonableness standard will adjust to the size of
3221 the platform. Again, the small startup doesn't have as many users
3222 to moderate. Isn't in 12 lines of business. Has fewer uses.

3223

3224 So if it starts knowing, I am accountable for what I do,

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3225 it will build responsibility by design. It will start small and
3226 responsible, and as it grows it will have added resources to deal
3227 with other issues as they pop up. I think it solves its own
3228 problem.

3229 Mr. Gianforte. Thank you, Mr. Chairman.

3230 Mr. Doyle. The gentleman's time has expired. I thank the
3231 gentleman.

3232 The chair now recognizes Ms. Blunt Rochester for five
3233 minutes.

3234 Ms. Blunt Rochester. Thank you, Mr. Chairman, and to the
3235 other chair and ranking members, to the panellists, especially
3236 Professor Overton, who I have had an opportunity to work with
3237 on future work issues. I say thank you.

3238 I am struggling a little with this hearing because of the
3239 significance and the timeliness of it. I think back to when we
3240 had this conversation about Section 230 months ago and the fact
3241 that at that time we talked about the lack of diversity and
3242 inclusion in some of these platforms and some of these companies,
3243 and how even when we talk about algorithms or we talk about humans
3244 who are -- have biases that it impacts what we get out of this
3245 -- you know, this system.

3246 And now we are facing COVID-19, a pandemic, on top of a
3247 pandemic while we address racial and social issues that our
3248 country has long been plagued with, and what these platforms do
3249 are magnify the current situation.

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3250 And, as we have seen, they are also exploiting and actually
3251 just really making things worse, and while there are good portions
3252 of the internet and good things about these platforms, one of
3253 the challenges now is that we have a sense of urgency.

3254 The questions now are life and death. People can die if
3255 there is misinformation out there about COVID-19. People can
3256 die if violence is incited in people and they go out because of
3257 what they are reading on these platforms that are artificially
3258 targeting them. And our democracy can die.

3259 So the sense of urgency I have, while today what is beautiful
3260 is that I am hearing Democrats and Republicans all say we have
3261 to face this. But what I really want to say is to those platforms
3262 and to those tech companies, we are putting you on notice. This
3263 is our country and this is really important.

3264 And so for this moment, a lot of Americans, millions are
3265 asking themselves individually and collectively what can I do.

3266 And so I am hoping that Mark Zuckerberg and Reddit and every
3267 -- YouTube, everybody, you are holding up a mirror to yourselves.

3268 I am going to ask a question. First of all, I am going to
3269 share -- Mr. Chairman, I have submitted a letter into the record
3270 to Mr. Zuckerberg supported by 42 members of Congress and by
3271 leading civil rights organizations, including the Leadership
3272 Conference, Color of Change, and the Joint Center, and I hope
3273 that this committee will consider having Mr. Zuckerberg and that
3274 he will see this moment as a wake-up call.

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3275 And in that line, I wanted to mention that --
3276 Mr. Doyle. Without objection, so ordered.
3277 [The information follows:]
3278 *****COMMITTEE INSERT*****

3279 Ms. Blunt Rochester. Thank you, sir.

3280 In 2018, Facebook hired an independent third-party to
3281 conduct a civil rights audit and we now have the results of the
3282 first two.

3283 And Ms. Collins-Dexter, the second audit report underscores
3284 the changes in policy Facebook was to take to address voter
3285 suppression, and the independent auditor stated that Facebook
3286 would implement new policies to further address these issues such
3287 as an explicit ban on don't vote ads.

3288 Has Facebook followed through on these new policies?

3289 Ms. Collins-Dexter. Thank you, Congresswoman.

3290 Facebook has not been consistent on following through on
3291 what they need to do, and I want to be clear. Facebook brought
3292 in Laura Murphy, formerly of the ACLU, to conduct the third-party
3293 audit. She did an Airbnb audit which resulted in clear changes
3294 that still exist to this day including infrastructure -- permanent
3295 civil rights infrastructure.

3296 She, at Facebook appears to have been -- I feel like, blocked,
3297 every time in terms of, like, what she recommends and how we see
3298 that play out in terms of, like, policy implementation, and though
3299 we have seen them move baby steps forward, we have no faith that
3300 they are actually going to go nearly as far as they need to.

3301 And to your point, the stakes are so incredibly high right
3302 now we have to move with urgency.

3303 Ms. Blunt Rochester. Thank you. And then on the question

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3304 of violent speech, it is already -- the chairman has already
3305 pointed out the statement of the President, when the looting
3306 starts the shooting starts, and that Mr. Zuckerberg refused to
3307 take that down -- that comment down.

3308 Ms. Collins-Dexter, please explain how this irresponsible
3309 policy by Facebook has the real potential to turn into violence.

3310 Ms. Collins-Dexter. We have seen people directly impacted
3311 by violence in real ways. We have seen hate crimes go up
3312 significantly. We have had a lot of threats directed at us.
3313 I have had threats directed at me.

3314 The stakes are super real and one thing I do want to say,
3315 too, like, we talk about regulation as stifling innovation. I
3316 think that it is best when government steps in and actually lays
3317 a new lay of the land and makes something possible, like the New
3318 Deal and other moments in time. We see that innovation actually
3319 runs free, and I think that is what we need to be doing right
3320 now.

3321 Ms. Blunt Rochester. Thank you, Mr. Chairman, for the
3322 opportunity.

3323 Mr. Doyle. The gentlelady's time has expired.

3324 Ms. Blunt Rochester. Thank you. I yield.

3325 Mr. Doyle. I thank the gentlelady.

3326 The chair now recognizes Mr. Carter for five minutes.

3327 Mr. Carter. Well, thank you, Mr. Chairman, and thank all
3328 of our panellists for being here today. We appreciate it. A

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3329 great discussion.

3330 I want to start with you, Mr. Fried -- Neil. When we talk
3331 about online disinformation, I think it is important for us to
3332 note where we are at and how this applies to the COVID-19 pandemic
3333 right now.

3334 I think that is very important because a lot of the
3335 disinformation, particularly in regards to false health benefits,
3336 is very troublesome and I wanted to ask you.

3337 I have got a bill. It is called the Combatting Pandemic
3338 Scams Act, and it really requires the federal government to push
3339 out best practices and awareness and, really, requires them to
3340 assimilate information about some of these scams and put them
3341 all in a database and put them online so people can learn about
3342 it.

3343 How do you see this fitting into the larger online picture
3344 of disinformation?

3345 Mr. Fried. I think it will be great to have that database.
3346 There is an impediment right now, which is WHOIS data would be
3347 very valuable to feed into that database.

3348 When we see patterns of misinformation coming from
3349 particular websites or particular names, often -- I mean, they
3350 are often bogus names. But there is pattern recognition here.

3351

3352 If you see a certain name associated with every single
3353 misinformation site about COVID in a certain time span,

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3354 cyber-security experts can say a-ha, here is a pattern. Next
3355 time we see information coming from this website, let us be
3356 suspect.

3357 That helps law enforcement. That helps cyber experts. It
3358 might even help algorithms, right. If we want to prioritize or
3359 deprioritize, it helps to know is this a site that is likely
3360 purveying misinformation.

3361 But we have lost access to a lot of WHOIS data because of
3362 GDPR. I would love to get that data back so we can build exactly
3363 those sorts of databases.

3364 Mr. Carter. Do you think it is important for the public
3365 to be brought up to date and to be kept up to date with this kind
3366 of information on these kind of ongoing scams?

3367 Mr. Fried. Sure, and actually there used to be -- there
3368 still are some databases but they are growing stale because we
3369 are losing access to that WHOIS data.

3370 Mr. Carter. Let me ask you another question. On June 22nd,
3371 the Wall Street Journal editorial board put out a piece about
3372 how the recent social justice movement has begun to move
3373 organizations to punish people for exercising their First
3374 Amendment rights on social media platforms, and we have talked
3375 about that all throughout this discussion today and we all
3376 understand what a difficult place we are in and how this can be
3377 done but it has got to be done carefully. We all understand that.

3378 But despite the fact that some of the opinions were not

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3379 negative in any ways they were still removed. Do you see a danger
3380 here? Do you see a danger of online platforms potentially
3381 creating a mentality or a pathway that could compromise people's
3382 First Amendment rights?

3383 Mr. Fried. As you point out, we have to be very sensitive
3384 when we are talking about speech. I think the best solution there
3385 is what a lot of both the witnesses and the members have talked
3386 about, which is, first, transparency. What are the policies,
3387 right.

3388 Second, what is the -- what are the terms of service, right.
3389 What are the standards going to be. And process, right. Who
3390 has been taken down for what reason; how can they appeal that.

3391 If we can track that information, some sort of -- sort like
3392 a -- I mean, often we get from the platforms is transparency
3393 reports. This has probably already being gathered.

3394 That kind of transparency will make sure we know why someone
3395 is being taken down, if there has been a mistake how they can
3396 fix it, and we can see patterns over time. Then maybe we know,
3397 you know, has there been good faith, has there not been good faith.

3398 Mr. Carter. You know, we have been talking about this
3399 subject for quite a while, for a long time. Even when you were
3400 still on the committee we were talking about it and, you know,
3401 the message that I think we are all giving to the platform owners
3402 and to those running the platforms is you need to do it to yourself
3403 before we have to do it to you. And I don't know how we get that

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3404 message across to them.

3405 I don't know -- I don't want to have to do that. I don't
3406 want the federal government -- because I am really fearful that
3407 we are going to suppress innovation and I don't want to see us
3408 do that. So that is my concern here.

3409 Let me ask you one final question. Combatting
3410 disinformation is, certainly, important and I believe it is also
3411 important to note that the suppression of real information doesn't
3412 -- that doesn't fit a political narrative.

3413 For instance, there are some media platforms that like to
3414 emphasize the good things that the governor of New York has been
3415 doing, and he has been doing some good things.

3416 But they fail to mention some of the things like putting
3417 patients in nursing -- putting COVID-19 patients infected in
3418 nursing homes, which is the absolute worst thing you could do.

3419 How do you balance between that? How do we balance on both
3420 sides of the aisle between that?

3421 Mr. Fried. Again, let us track what is happening and why,
3422 because that is how we analyse data and figure and figure out
3423 what really is happening, and then it is back to the marketplace
3424 of ideas, right.

3425 The more platforms there are, the more avenues for
3426 expression, you make sure that the good data comes out and those
3427 will attract consumers. And, again, that is the benefit of
3428 keeping (c)(2), right, keeping the content moderation safe harbor

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3429 of 230.

3430 So we have all those platforms, all those opinions expressed.

3431 Just make sure that if there is something really nefarious
3432 happening there is accountability for the platform.

3433 Mr. Doyle. Gentleman's time has expired.

3434 Mr. Carter. Thank you, Mr. Chairman. I yield back.

3435 Mr. Doyle. I thank the gentleman.

3436 The chair now recognizes Mr. Walberg for five minutes.

3437 Mr. Walberg. Hold on. There we go. There we go.

3438 Thanks for this hearing. It is something whose time has
3439 come.

3440 Let me follow up, briefly, on Leader Walden's interest in
3441 having Jack Dorsey back before the committee.

3442 I would like to enter into the record a New York Times article
3443 from yesterday on how Mr. Dorsey -- his financial transactions
3444 company Square is withholding payments to thousands of small
3445 enterprises with little warning who are desperately in need of
3446 these funds to stay afloat during the pandemic, and when these
3447 folks attempted to use Mr. Dorsey's other company, Twitter, to
3448 complain, they were blocked.

3449 I would like to have that entered.

3450 Mr. Doyle. Without objection, so ordered.

3451 [The information follows:]

3452

3453 *****COMMITTEE INSERT*****

3454 Mr. Walberg. Thank you. Thank you.

3455 Mr. Fried, it almost goes without saying in relation to your
3456 testimony that the courts have strayed away from the original
3457 congressional intent behind Section 230.

3458 The advocacy courts that we have today strayed away from
3459 a lot. So this shouldn't surprise us. Can you please explain
3460 how judicial interpretation of Section 230 over the last two
3461 decades has not squared with its purpose?

3462 Mr. Fried. Sure, Congressman.

3463 So this really, as we, I think, all know now, started as
3464 a libel case, right, and it was about Prodigy, who was doing the
3465 right thing, being a Good Samaritan, missed something and was
3466 punished for it, right. They were, essentially, were told --
3467 they weren't punished but they could have been held culpable
3468 because of their good-faith efforts.

3469 That is what I think got Congress's concerns. That is what
3470 led to, you know, now Senator Wyden, Congressman Cox, to rightly
3471 point out we had a disincentive. We were actually discouraging
3472 people from moderating. That is what this law was supposed to
3473 be about.

3474 Unfortunately, it was written in a way that has been
3475 interpreted to do much more than that. It doesn't just -- so
3476 the first problem is it doesn't just protect the Good Samaritan
3477 that is doing content moderation. It protects those that are
3478 doing no content moderation, inadequate content moderation, and

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3479 the Bad Samaritans. That is the first problem.

3480 It also is going way beyond defamation, right. So now we
3481 know it is applying to almost every gig economy, sex trafficking,
3482 SESTA-FOSTA now. Still have a problem with child pornography,
3483 sexually explicit materials, the sale of drugs, and this (c)(1)
3484 provision is being used to apply to all of that. That was never
3485 anybody's intention.

3486 Unfortunately, the language is amenable to that
3487 interpretation, which is why if we fix (c)(1) I think a lot of
3488 our problems get a lot better. It doesn't make everything go
3489 away.

3490 But I think even just that change, and it can be modest,
3491 can make a lot of good and help a lot of these problems that every
3492 witness here is saying is a problem. It is every witness here.

3493 It is most witnesses at most of the panels in hearings we have
3494 been having, and it has all been victims, right. All of us are
3495 saying, the status quo isn't working; something has to change.

3496 Mr. Walberg. Yes. And seeing the nodding of heads, I think
3497 we are in agreement on that and needs to move forward.

3498 Let me -- Mr. Fried, you put forward in your proposal, in
3499 your testimony, that Congress should consider amending, and I
3500 think we have all talked about amending 230 to add reasonable
3501 duty of care in order to earn the liability protections under
3502 the law, and we have discussed that quite a bit today.

3503 But could you expand on any key guiding principles that ought

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3504 to be there for Congress to consider in retaining and modifying
3505 the liability protections in Section 230? The guiding
3506 principles, those overriding guiding principles.

3507 Mr. Fried. Save (c)(2). Content moderation safe harbor
3508 is important. That was the goal. Let us save that. Let us not
3509 try and regulate everything, right. We don't want a patchwork,
3510 right. That would be harmful.

3511 But if you write the incentives and recognize the difference
3512 between speech and illicit conduct, I think those are the guiding
3513 principles, right. So add to that transparency and I think you
3514 can make a modest change to 230 that fixes the problem, that saves
3515 all the benefit that has led to what is a wonderful internet.

3516

3517 I mean, I don't want to be seen as a Luddite. The internet
3518 is great. But we can keep the great parts of the internet and
3519 fix the problems from incentive in Section 230.

3520 Mr. Walberg. Thank you. I will yield my time.

3521 Mr. Fried. Thank you.

3522 Mr. Doyle. I thank the gentleman.

3523 I note that Mr. Sarbanes has waived onto the committee and
3524 it gives me great pleasure now to recognize him for five minutes.

3525 Mr. Sarbanes. Thanks very much, Mr. Chairman. Can you hear
3526 me?

3527 Mr. Doyle. I can hear you fine.

3528 Mr. Sarbanes. Excellent. Well, thank you for the

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3529 opportunity to participate in this hearing. Really outstanding
3530 panel. I appreciate all the testimony. I have been listening
3531 for the last two or three hours because it is a very important
3532 topic.

3533 So we know that hostile actors both foreign and domestic,
3534 sadly, have grown quite sophisticated in exploiting these
3535 platforms -- these social media platforms -- to sow discord, to
3536 widen political division, and far too often, as we have heard,
3537 to suppress people's vote.

3538 Yet, as this hearing has shown, these platforms have been
3539 reluctant to deploy the full suite of their proven tools to combat
3540 the known threat, and it just doesn't have to be this way, from
3541 what I understand.

3542 While not perfect, the platform's response to the COVID-19
3543 outbreak has at least given us a rough roadmap for how they can
3544 proactively -- and I emphasize that word -- proactively provide
3545 users with accurate information about our democracy, about our
3546 elections, while keeping harmful misinformation designed to
3547 suppress the vote from spreading on its apps and on their platforms
3548 and so forth.

3549 For example, Facebook's efforts at addressing COVID-19 have
3550 included sending correct information to -- (Telephonic
3551 interference.) -- users and notifying them when they have
3552 interacted with false information. So there are steps that they
3553 can take.

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3554 Professor Farid, simply as a matter of technological
3555 capacity for the moment, can Facebook and the other platforms
3556 direct users to verified sources of information for those users
3557 who are known to interact with false information about voting?

3558 Mr. Farid. Absolutely. I mean, these are the ultimate
3559 data-collecting and intelligence-collecting corporations. They
3560 have a phenomenal amount of information of who we are, what we
3561 watch, what we see, and they absolutely have the technological
3562 and the data ability to inform us when we have been interacted
3563 with harmful content.

3564 Now, it remains to be seen if that is, in fact, helpful.
3565 Does correcting the record actually deal with the harms that
3566 happened earlier on, and there is some contradictory evidence
3567 in the literature that simply trying to correct the record will
3568 undo everything. That is just not the way human nature works.
3569 There is a boomerang effect.

3570 So my preference is to avoid the contact in the beginning.
3571 But if it does happen, this is absolutely unnecessary but it
3572 may not be a sufficient step.

3573 Mr. Sarbanes. I agree with that. I think we need both.
3574 I think you all have given powerful testimony as why you need
3575 that kind of front end response to disinformation to try to protect
3576 the users from these things that can sow division and otherwise,
3577 in effect, distort our democracy.

3578 But it is clear that they have the tools to do this both

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3579 on the front end if, as you testified earlier, they are willing
3580 to put the resources and attention behind it in a meaningful way,
3581 but also as evidenced by the way they have handled the COVID-19
3582 disinformation, provide good positive corrected information on
3583 the back end when that is necessary and called for.

3584 Professor Overton, this discussion, I guess, begs the
3585 question if the capacity exists for Facebook and these other
3586 platforms to have that kind of a response in their toolkit, what,
3587 from your perspective, can explain their reluctance to do it?

3588 Mr. Overton. Well, thanks for your leadership in terms of
3589 empowering small voices in terms of small donors, number one,
3590 in terms of public financing. So I just wanted to note that.

3591 I think, again, as Dr. Farid talked about, there are these
3592 financial incentives that companies have to look the other way,
3593 to basically say, hey, we'll sell this ad that is targeted --
3594 employment ad that is targeted to whites and away from blacks.

3595
3596 We will sell this ad that is targeted at black communities
3597 in terms of voter suppression without a lot of scrutiny. So I
3598 think these financial incentives are there and that we need some
3599 other incentives like regulatory incentives possibly to address
3600 it.

3601 Mr. Sarbanes. Thank you.

3602 Ms. Collins-Dexter, in the time I have left, in addition
3603 to proactively notifying users when they have interacted with

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3604 false information, do you think Facebook and other platforms
3605 should take additional and affirmative steps of labelling or
3606 removing posts when that platform is being used for voter
3607 suppression and disinformation?

3608 Ms. Collins-Dexter. Absolutely. We find in our organizing
3609 work that when disinformation gets out, even if you correct it
3610 or put a label over it, people retain the lie more than the truth.

3611 So the content, I think, should come down. I think we also
3612 need to look at who are the verified users and how they may be
3613 pushers of disinformation and what are the consequences for that.

3614 Mr. Sarbanes. Thank you very much.

3615 Mr. Doyle. The gentleman's time has expired. I thank the
3616 gentleman.

3617 I want to thank my co-chair, Jan Schakowsky, for her good
3618 work, and our ranking member, Bob Latta, and all the members.

3619 And I especially want to thank this outstanding panel. We
3620 have really enjoyed your testimony and the way you have responded
3621 to our questions.

3622 I want to remind all members that pursuant to our committee
3623 rules that they have 10 business days to submit additional
3624 questions for the record to be answered by the witnesses who have
3625 appeared, and I ask each witness to respond promptly to any such
3626 questions that you may receive.

3627 Before we adjourn, I would like to request unanimous consent
3628 to enter the following records -- the following documents into

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3629 the record:

3630 First, a letter from the National Hispanic Media Coalition;
3631 a letter from the Coalition for a Safer Web; a letter from CCIA
3632 and NetChoice; a letter from Zeve Sanderson, executive director
3633 of NYU Center for Social Media and Politics; a letter from Public
3634 Knowledge; a statement from the Leadership Conference on Civil
3635 and Human Rights; an essay by Mr. Spencer Overton; a Wall Street
3636 article, Facebook Executive Shut Down Efforts to Make the Site
3637 Less Divisive; a letter to Facebook on civil rights issues from
3638 Representative Lisa Blunt Rochester and others; a letter from
3639 the Lithuanian American Community; a letter from the Central and
3640 Eastern European Coalition; research from Debunk EU on
3641 disinformation; a letter from the Open Technology Institute; a
3642 letter from Consumer Reports; and last but not least, an article
3643 from the New York Times entitled, Square, Jack Dorsey's Pay
3644 Service, is Withholding Money Merchants Say They Need.

3645 So, without objection, so ordered.

3646 [The information follows:]

3647

3648 *****COMMITTEE INSERT*****

3649

Mr. Doyle. And at this time, the committee is adjourned.

3650

[Whereupon, at 2:52 p.m., the committee was adjourned.]