

[DISCUSSION DRAFT]

117TH CONGRESS
1ST SESSION

H. R. _____

To amend section 230 of the Communications Act of 1934 to provide that immunity under such section does not apply to certain companies and to require internet platform companies to implement and maintain reasonable and user-friendly appeals processes for decisions about content on the platforms of such companies and to submit quarterly filings to the Federal Trade Commission regarding content enforcement decisions and appeals, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

M. _____ introduced the following bill; which was referred to the
Committee on _____

A BILL

To amend section 230 of the Communications Act of 1934 to provide that immunity under such section does not apply to certain companies and to require internet platform companies to implement and maintain reasonable and user-friendly appeals processes for decisions about content on the platforms of such companies and to submit quarterly filings to the Federal Trade Commission regarding content enforcement decisions and appeals, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 **["_____ Act of 2021"]**.

6 (b) TABLE OF CONTENTS.—The table of contents for
7 this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—LIMITATIONS ON SECTION 230 IMMUNITY

Sec. 101. Inapplicability of section 230 immunity to certain companies.

Sec. 102. Transitional rule.

TITLE II—REQUIREMENTS FOR INTERNET PLATFORM
COMPANIES

Sec. 201. Appeals processes.

Sec. 202. Filings regarding content enforcement decisions and appeals.

Sec. 203. Enforcement.

Sec. 204. Rule of construction.

Sec. 205. Relationship between Federal and State law.

Sec. 206. Definitions.

8 **TITLE I—LIMITATIONS ON**
9 **SECTION 230 IMMUNITY**

10 **SEC. 101. INAPPLICABILITY OF SECTION 230 IMMUNITY TO**
11 **CERTAIN COMPANIES.**

12 Section 230 of the Communications Act of 1934 (47
13 U.S.C. 230) is amended by adding at the end the fol-
14 lowing:

15 **“(g) INAPPLICABILITY OF IMMUNITY TO COVERED**
16 **COMPANIES.—**

1 “(1) IN GENERAL.—In the case of a provider of
2 an interactive computer service that is a covered
3 company—

4 “(A) paragraph (1) of subsection (c) shall
5 not apply with respect to content provided by
6 another information content provider after the
7 date of the enactment of this subsection; and

8 “(B) paragraph (2) of subsection (c) shall
9 not apply with respect to an action taken by
10 such provider after the date of the enactment of
11 this subsection.

12 【“(2) COVERED COMPANY DEFINED.—In this
13 subsection, the term ‘covered company’ means a
14 company that provides any interactive computer
15 service that—】

16 【“(A) generates \$3,000,000,000 or more
17 in annual revenue; and】

18 【“(B) has 300,000,000 or more monthly
19 active users.”.】

20 **SEC. 102. TRANSITIONAL RULE.**

21 (a) IN GENERAL.—Title II of the Communications
22 Act of 1934 (47 U.S.C. 201 et seq.) is amended by insert-
23 ing after section 230 the following:

24 **“SEC. 230A. LIMITED IMMUNITY FOR COVERED COMPANIES.**

25 “(a) IN GENERAL.—

1 “(1) TREATMENT OF PUBLISHER OR SPEAK-
2 ER.—No provider of an interactive computer service
3 that is a covered company shall be treated as the
4 publisher or speaker of any information provided by
5 another information content provider.

6 “(2) CIVIL LIABILITY.—No provider of an
7 interactive computer service that is a covered com-
8 pany shall be held liable on account of—

9 “(A) any action voluntarily taken in good
10 faith to restrict access to or availability of ma-
11 terial that is not constitutionally protected or
12 that the provider has an objectively reasonable
13 belief is obscene, lewd, lascivious, filthy, exces-
14 sively violent, or harassing; or

15 “(B) any action taken to enable or make
16 available to information content providers or
17 others the technical means to restrict access to
18 material described in subparagraph (A).

19 “(b) EFFECT ON OTHER LAWS.—

20 “(1) NO EFFECT ON CRIMINAL LAW.—Nothing
21 in this section shall be construed to impair the en-
22 forcement of section 223 or 231 of this Act, chapter
23 71 (relating to obscenity) or 110 (relating to sexual
24 exploitation of children) of title 18, United States
25 Code, or any other Federal criminal statute.

1 “(2) NO EFFECT ON INTELLECTUAL PROPERTY
2 LAW.—Nothing in this section shall be construed to
3 limit or expand any law pertaining to intellectual
4 property.

5 “(3) STATE LAW.—Nothing in this section shall
6 be construed to prevent any State from enforcing
7 any State law that is consistent with this section. No
8 cause of action may be brought and no liability may
9 be imposed under any State or local law that is in-
10 consistent with this section.

11 “(4) NO EFFECT ON COMMUNICATIONS PRIVACY
12 LAW.—Nothing in this section shall be construed to
13 limit the application of the Electronic Communica-
14 tions Privacy Act of 1986 or any of the amendments
15 made by such Act, or any similar State law.

16 “(5) NO EFFECT ON SEX TRAFFICKING LAW.—
17 Nothing in this section (other than subsection
18 (a)(2)(A)) shall be construed to impair or limit—

19 “(A) any claim in a civil action brought
20 under section 1595 of title 18, United States
21 Code, if the conduct underlying the claim con-
22 stitutes a violation of section 1591 of that title;

23 “(B) any charge in a criminal prosecution
24 brought under State law if the conduct under-

1 lying the charge would constitute a violation of
2 section 1591 of title 18, United States Code; or

3 “(C) any charge in a criminal prosecution
4 brought under State law if the conduct under-
5 lying the charge would constitute a violation of
6 section 2421A of title 18, United States Code,
7 and promotion or facilitation of prostitution is
8 illegal in the jurisdiction where the defendant’s
9 promotion or facilitation of prostitution was
10 targeted.

11 “(c) DEFINITIONS.—As used in this section:

12 “(1) INTERNET.—The term ‘Internet’ means
13 the international computer network of both Federal
14 and non-Federal interoperable packet switched data
15 networks.

16 “(2) INTERACTIVE COMPUTER SERVICE.—The
17 term ‘interactive computer service’ means any infor-
18 mation service, system, or access software provider
19 that provides or enables computer access by multiple
20 users to a computer server, including specifically a
21 service or system that provides access to the Inter-
22 net and such systems operated or services offered by
23 libraries or educational institutions.

24 “(3) INFORMATION CONTENT PROVIDER.—The
25 term ‘information content provider’ means any per-

1 son or entity that is responsible, in whole or in part,
2 for the creation or development of information pro-
3 vided through the Internet or any other interactive
4 computer service. To be responsible in whole or in
5 part includes those instances in which an informa-
6 tion content provider utilizes an algorithm to am-
7 plify, promote, or suggest content to a user unless
8 a user knowingly and willfully selects an algorithm
9 to display such content.

10 “(4) ACCESS SOFTWARE PROVIDER.—The term
11 ‘access software provider’ means a provider of soft-
12 ware (including client or server software), or ena-
13 bling tools that do any one or more of the following:

14 “(A) filter, screen, allow, or disallow con-
15 tent;

16 “(B) pick, choose, analyze, or digest con-
17 tent; or

18 “(C) transmit, receive, display, forward,
19 cache, search, subset, organize, reorganize, or
20 translate content.

21 **【“(5) COVERED COMPANY.—The term ‘covered
22 company’ means a company that provides any inter-
23 active computer service that—】**

24 **【“(A) generates \$3,000,000,000 or more
25 in annual revenue; and】**

1 【“(B) has 300,000,000 or more monthly
2 active users.”.】

3 (b) SUNSET.—Effective on the date that is 5 years
4 after the date of the enactment of this Act, section 230A
5 of the Communications Act of 1934, as added by sub-
6 section (a), is repealed.

7 **TITLE II—REQUIREMENTS FOR**
8 **INTERNET PLATFORM COM-**
9 **PANIES**

10 **SEC. 201. APPEALS PROCESSES.**

11 (a) IN GENERAL.—Each covered company shall im-
12 plement and maintain reasonable and user-friendly ap-
13 peals processes for decisions about content on such cov-
14 ered company’s platforms.

15 (b) DECISIONS REGARDING CONTENT.—For any con-
16 tent a covered company edits, alters, blocks, or removes,
17 the covered company shall—

18 (1) provide notice to the individual user imme-
19 diately after their content was edited, altered,
20 blocked, or removed;

21 (2) clearly state why such content was edited,
22 altered, blocked, or removed, including by citing the
23 specific provisions of such covered company’s con-
24 tent policies on which the decision was based;

1 (3) explain the process such user must under-
2 take to appeal such decision; and

3 (4) in the case of any such appeal—

4 (A) respond to the appeal not later than
5 **【____ days】** after the date on which the user
6 files the appeal;

7 (B) provide an opportunity for such user
8 to present reasons why the covered company's
9 action should not have been taken, including
10 demonstrating inconsistent application of such
11 company's specific content policy at issue; and

12 (C) make a final determination about the
13 covered company's content decision not later
14 than **【____ days】** after the date on which the
15 user files the appeal.

16 (c) DECISIONS REGARDING USER ACCOUNTS.—For
17 user accounts a covered company suspends or permanently
18 bans related to a content decision, the covered company
19 shall—

20 (1) provide notice to the individual user imme-
21 diately after their account was suspended or perma-
22 nently banned;

23 (2) clearly state to a user why their account
24 was suspended or permanently banned, including by
25 citing the specific provision of such covered com-

1 pany’s content policies on which the decision was
2 based;

3 (3) explain the process such user must under-
4 take to appeal such decision; and

5 (4) in the case of any such appeal—

6 (A) respond to the appeal not later than
7 **【____ days】** after the date on which the user
8 files the appeal;

9 (B) provide an opportunity for such user
10 to present reasons why the covered company’s
11 action should not have been taken, including
12 demonstrating inconsistent application of such
13 company’s specific content policy at issue; and

14 (C) make a final determination about the
15 covered company’s decision to suspend or per-
16 manently ban the user’s account not later than
17 **【____ days】** after the date on which the user
18 files the appeal.

19 **SEC. 202. FILINGS REGARDING CONTENT ENFORCEMENT**
20 **DECISIONS AND APPEALS.**

21 (a) **QUARTERLY FILINGS.**—Each covered company
22 shall submit to the Commission, on a quarterly basis, a
23 detailed description of such covered company’s content en-
24 forcement decisions and appeals decisions, including the
25 following:

1 (1) Content that such covered company altered,
2 flagged, or removed from such covered company's
3 platforms.

4 (2) The number of user accounts suspended
5 based on content enforcement decisions.

6 (3) The number of user accounts permanently
7 banned based on content enforcement decisions.

8 (4) For all content enforcement decisions, the
9 number of such decisions related to conservative con-
10 tent and conservative accounts.

11 (5) For all content enforcement decisions, the
12 number of such decisions related to liberal content
13 and liberal accounts.

14 (6) The number of appeals filed for content de-
15 cisions and corresponding decisions on such appeals.

16 (7) The number of appeals filed for suspensions
17 or permanent bans of accounts and corresponding
18 decisions on such appeals.

19 (b) PUBLIC AVAILABILITY.—The Commission shall
20 make publicly available on the website of the Commission
21 the disclosures required under subsection (a). The covered
22 company filing such disclosures may claim any informa-
23 tion included in such filing to be privileged and confiden-
24 tial and, upon coordination with the Commission, such in-
25 formation shall be treated as such for purposes of section

1 552(b)(4) of title 5, United States Code. If the Commis-
2 sion withholds any information included in the filing, the
3 Commission shall make publicly available on the website
4 the category of information withheld and the purposes for
5 doing so.

6 **SEC. 203. ENFORCEMENT.**

7 (a) ENFORCEMENT BY FEDERAL TRADE COMMIS-
8 SION.—

9 (1) UNFAIR OR DECEPTIVE ACTS OR PRAC-
10 TICES.—A violation of this title shall be treated as
11 a violation of a rule defining an unfair or deceptive
12 act or practice prescribed under section 18(a)(1)(B)
13 of the Federal Trade Commission Act (15 U.S.C.
14 57a(a)(1)(B)).

15 (2) ACTIONS BY THE COMMISSION.—The Com-
16 mission shall enforce this title in the same manner,
17 by the same means, and with the same jurisdiction,
18 powers, and duties as though all applicable terms
19 and provisions of the Federal Trade Commission Act
20 (15 U.S.C. 41 et seq.) were incorporated into and
21 made a part of this title, and any covered company
22 that violates this title shall be subject to the pen-
23 alties and entitled to the privileges and immunities
24 provided in the Federal Trade Commission Act.

1 (b) ENFORCEMENT BY STATE ATTORNEYS GEN-
2 ERAL.—

3 (1) IN GENERAL.—If the attorney general of a
4 State has reason to believe that any covered com-
5 pany has violated or is violating this title that af-
6 fects one or more residents of that State, the attor-
7 ney general of the State may bring a civil action ex-
8 clusively in an appropriate district court of the
9 United States to—

10 (A) enjoin further such violation by the de-
11 fendant;

12 (B) enforce compliance with this title;

13 (C) obtain civil penalties in the amount
14 provided for under subsection (a);

15 (D) obtain other remedies permitted under
16 State law; or

17 (E) obtain damages, restitution, or other
18 compensation on behalf of residents of the
19 State.

20 (2) RULE OF CONSTRUCTION.—For purposes of
21 bringing a civil action under paragraph (1), nothing
22 in this title shall be construed to prevent the attor-
23 ney general of a State from exercising the powers
24 conferred on such attorney general by the laws of
25 the State to conduct investigations, administer oaths

1 or affirmations, or compel the attendance of wit-
2 nesses or the production of documentary and other
3 evidence.

4 (3) ACTIONS BY OTHER STATE OFFICIALS.—

5 (A) IN GENERAL.—In addition to civil ac-
6 tions brought by attorneys general under para-
7 graph (1), any other officer of a State who is
8 authorized by the State to do so, except for any
9 private person on behalf of the State, may bring
10 a civil action under paragraph (1), subject to
11 the same requirements and limitations that
12 apply under this subsection to civil actions
13 brought by attorneys general.

14 (B) SAVINGS PROVISION.—Nothing in this
15 subsection may be construed to prohibit an au-
16 thorized official of a State from initiating or
17 continuing any proceeding in a court of the
18 State for a violation of any civil or criminal law
19 of the State.

20 **SEC. 204. RULE OF CONSTRUCTION.**

21 Except as otherwise expressly provided, nothing in
22 this title may be construed to expand the authority of the
23 Commission.

1 **SEC. 205. RELATIONSHIP BETWEEN FEDERAL AND STATE**
2 **LAW.**

3 No State or political subdivision of a State may
4 adopt, maintain, enforce, or continue in effect any law,
5 regulation, rule, requirement, or standard that conflicts
6 with the requirements of this title.

7 **SEC. 206. DEFINITIONS.**

8 In this title:

9 (1) **COMMISSION.**—The term “Commission”
10 means the Federal Trade Commission.

11 **[(2) COVERED COMPANY.**—The term “covered
12 company” means a company that provides any inter-
13 net platform that—**]**

14 **[(A) generates \$3,000,000,000 or more in**
15 **annual revenue; and]**

16 **[(B) has 300,000,000 or more monthly ac-**
17 **tive users.]**