

[DISCUSSION DRAFT]

117TH CONGRESS
1ST SESSION

H. R. _____

To amend section 230 of the Communications Act of 1934 to limit immunity under such section for actions based on racial, sexual, political affiliation, or ethnic grounds, and to preserve access to lawful content and prevent discrimination and unfair methods of competition on the internet, 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 limit immunity under such section for actions based on racial, sexual, political affiliation, or ethnic grounds, and to preserve access to lawful content and prevent discrimination and unfair methods of competition on the internet, 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"]**.

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

Sec. 1. Short title; table of contents.

TITLE I—NONDISCRIMINATION

Sec. 101. Nondiscrimination.

TITLE II—PRESERVING ACCESS TO LAWFUL CONTENT

Sec. 201. Preserving access to lawful content.

Sec. 202. Relationship between Federal and State law.

Sec. 203. Covered company defined.

3 **TITLE I—NONDISCRIMINATION**

4 **SEC. 101. NONDISCRIMINATION.**

5 Section 230(c) of the Communications Act of 1934
6 (47 U.S.C. 230(c)) is amended by adding at the end the
7 following:

8 “(3) NONDISCRIMINATION.—

9 “(A) IN GENERAL.—Paragraphs (1) and
10 (2) shall not apply to an action taken by a pro-
11 vider of an interactive computer service that is
12 a covered company against a user or entity
13 based on racial, sexual, political affiliation, or
14 ethnic grounds.

15 [“(B) COVERED COMPANY DEFINED.—In
16 this paragraph, the term ‘covered company’
17 means a company that provides any interactive
18 computer service that—]

19 [“(i) generates \$3,000,000,000 or
20 more in annual revenue; and]

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

3 **TITLE II—PRESERVING ACCESS**
4 **TO LAWFUL CONTENT**

5 **SEC. 201. PRESERVING ACCESS TO LAWFUL CONTENT.**

6 (a) IN GENERAL.—A covered company may not en-
7 gage in a practice that does any of the following:

8 (1) Blocks or otherwise prevents a user or enti-
9 ty from accessing any lawful content, application,
10 service, or device that does not interfere with the
11 functionality of the internet platform of the covered
12 company or pose a data privacy or data security risk
13 to a user.

14 (2) Degrades or impairs the access of a user or
15 entity to lawful internet traffic on the basis of con-
16 tent, application, service, or use of a device that does
17 not interfere with the functionality of the internet
18 platform of the covered company or pose a data pri-
19 vacy or data security risk to a user.

20 (b) EXCEPTIONS.—

21 (1) PUBLICATION OF DESCRIPTION OF TYPE OF
22 CONTENT.—If a covered company publishes in its
23 terms of service a description of a type of content
24 that such covered company blocks or otherwise pre-
25 vents access to under paragraph (1) of subsection

1 (a) or degrades or impairs access to under para-
2 graph (2) of such subsection, such paragraph shall
3 not apply to such covered company with respect to
4 such type of content.

5 (2) INTERNET PLATFORM ACTING AS PUB-
6 LISHER.—The prohibitions under subsection (a)
7 shall not apply to the extent that an internet plat-
8 form publicly proclaims to be a publisher, insofar as
9 the internet platform is acting as a publisher, of any
10 particular content, application, or service.

11 (c) ENFORCEMENT BY FEDERAL TRADE COMMIS-
12 SION.—

13 (1) UNFAIR OR DECEPTIVE ACTS OR PRAC-
14 TICES.—A violation of this section shall be treated
15 as a violation of a regulation under section
16 18(a)(1)(B) of the Federal Trade Commission Act
17 (15 U.S.C. 57a(a)(1)(B)) regarding unfair or decep-
18 tive acts or practices.

19 (2) POWERS OF COMMISSION.—The Federal
20 Trade Commission shall enforce this section in the
21 same manner, by the same means, and with the
22 same jurisdiction, powers, and duties as though all
23 applicable terms and provisions of the Federal Trade
24 Commission Act (15 U.S.C. 41 et seq.) were incor-
25 porated into and made a part of this title. Any per-

1 son who violates this section shall be subject to the
2 penalties and entitled to the privileges and immuni-
3 ties provided in the Federal Trade Commission Act.

4 (d) ACTIONS BY STATES.—

5 (1) IN GENERAL.—In any case in which the at-
6 torney general of a State, or an official or agency of
7 a State, has reason to believe that an interest of the
8 residents of such State has been or is threatened or
9 adversely affected by an act or practice in violation
10 of this section, the State, as *parens patriae*, may
11 bring a civil action on behalf of the residents of the
12 State in an appropriate State court or an appro-
13 priate district court of the United States to—

14 (A) enjoin such act or practice;

15 (B) enforce compliance with this section;

16 (C) obtain damages, restitution, or other
17 compensation on behalf of residents of the
18 State; or

19 (D) obtain such other legal and equitable
20 relief as the court may consider to be appro-
21 priate.

22 (2) NOTICE.—Before filing an action under this
23 subsection, the attorney general, official, or agency
24 of the State involved shall provide to the Federal
25 Trade Commission a written notice of such action

1 and a copy of the complaint for such action. If the
2 attorney general, official, or agency determines that
3 it is not feasible to provide the notice described in
4 this paragraph before the filing of the action, the at-
5 torney general, official, or agency shall provide writ-
6 ten notice of the action and a copy of the complaint
7 to the Federal Trade Commission immediately upon
8 the filing of the action.

9 (3) AUTHORITY OF FEDERAL TRADE COMMIS-
10 SION.—

11 (A) IN GENERAL.—On receiving notice
12 under paragraph (2) of an action under this
13 subsection, the Federal Trade Commission shall
14 have the right—

- 15 (i) to intervene in the action;
16 (ii) upon so intervening, to be heard
17 on all matters arising therein; and
18 (iii) to file petitions for appeal.

19 (B) LIMITATION ON STATE ACTION WHILE
20 FEDERAL ACTION IS PENDING.—If the Federal
21 Trade Commission or the Attorney General of
22 the United States has instituted a civil action
23 for violation of this section (referred to in this
24 subparagraph as the “Federal action”), no
25 State attorney general, official, or agency may

1 bring an action under this subsection during
2 the pendency of the Federal action against any
3 defendant named in the complaint in the Fed-
4 eral action for any violation of this section al-
5 leged in such complaint.

6 (4) **RULE OF CONSTRUCTION.**—For purposes of
7 bringing a civil action under this subsection, nothing
8 in this title shall be construed to prevent an attorney
9 general, official, or agency of a State from exercising
10 the powers conferred on the attorney general, offi-
11 cial, or agency by the laws of such State to conduct
12 investigations, administer oaths and affirmations, or
13 compel the attendance of witnesses or the production
14 of documentary and other evidence.

15 **SEC. 202. RELATIONSHIP BETWEEN FEDERAL AND STATE**
16 **LAW.**

17 No State or political subdivision of a State may
18 adopt, maintain, enforce, or continue in effect any law,
19 regulation, rule, requirement, or standard that conflicts
20 with the requirements of this title.

21 **[SEC. 203. COVERED COMPANY DEFINED.**

22 In this title, the term “covered company” means a
23 company that provides any internet platform that—

24 [(1) generates \$3,000,000,000 or more in an-
25 nual revenue; and]

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