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POLICY HUB**

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Policy 101: Section 230



What is Section 230?

[Section 230](#) allows internet platforms to host other people's speech without being liable for it. A part of the [1996 Communications and Decency Act](#), Section 230 states that internet providers are not considered the "publishers" or "speakers" of content other people create on their sites, thus shielding them from litigation over users' posts. The law further gives platforms the right to act as "Good Samaritans" and moderate offensive content as they see fit. Because of Section 230, if a user defames someone else on Twitter, the poster can be sued – but not Twitter. And if Twitter decides a certain post is offensive, the company can choose to mark it, take it down, or do nothing at all.

There are a few specific exceptions; platforms are required to take action against content that violates copyrights, violates federal criminal law, or relates to sex work.



Why are we talking about it now?

[Presidents Biden](#) and [Trump](#) have both expressed interest in reforming Section 230. In Congress, [several bipartisan bills](#) seek to undercut Section 230 protections. Though there is disagreement on the details, the fact that policymakers of all stripes want to reform Section 230 has directed attention to the law and possible changes. Tech companies are also facing more scrutiny in general, as evidenced by [mounting investigations](#) into monopolistic practices, data collection, and user privacy.



What are the arguments for and against changing Section 230?

Policymakers on both sides of the aisle are seeking changes to Section 230, drawn from a [range of perceived problems](#). Many conservatives believe the law gives platforms too much power to decide what is offensive and suppress particular viewpoints. Many progressives think it applies too little pressure on platforms to intervene when disinformation and harm spreads through their services. Members of both parties agree that some content is too extreme to be moderated on a discretionary basis, like posts related to human trafficking and child sexual abuse. This overlap has resulted in bipartisan bills to create more specific "carveout" exceptions to Section 230.

Still, some external advocates say Section 230 should be left alone. These proponents argue that the law has enabled companies to experiment with their services, giving way to social media networks like Facebook, specialized content sites like Nextdoor, and crowdsourced bases like Wikipedia. Advocates also point out that Section 230 is an important guard against non-meritorious litigation. Without this immunity, platforms could be burdened with enormous costs to fight nuisance lawsuits and could ultimately stifle innovation.





What does Section 230 have to do with...

The First Amendment

The First Amendment allows platforms to moderate user content and prevents the government from engaging in moderation itself. It is distinct from Section 230, which gives platforms greater freedom to make rules about what is allowed on their platforms and not be sued for those decisions. Hate speech, for example, is in some circumstances protected under the First Amendment, but platforms can set their own policies to moderate it.

Social Media Companies

Section 230 has given social media companies near-complete control over the content they host – for better and for worse. Without Section 230, companies like Facebook and Twitter would be pummeled by lawsuits. Even if most of these cases were dismissed, the sheer volume of complaints and the resources required to fight them would be devastating, especially to smaller startups. At the same time, companies are facing challenges keeping users safe on their platforms. So while social media companies depend on Section 230, many do support some careful reform; Facebook laid out its vision in a white paper [here](#).

People on the Internet

Section 230 only offers immunity to internet intermediaries — platforms that host other people’s content. Individuals are still legally responsible for content they post themselves.

LEGISLATION TO KNOW

Allow States and Victims to Fight Online Sex Trafficking Act (2018)

Better known as FOSTA, [this law](#) removed Section 230 protection from platforms that facilitate sex trafficking.

Platform Accountability and Consumer Transparency Act (proposed)

The [PACT Act](#), a bipartisan bill, would require platforms to be more open about their content moderation practices and to provide users with a clear complaint and appeal processes.

Protecting Americans from Dangerous Algorithms Act (proposed)

[This act](#) would make platforms liable for content that violates civil rights or enables international terrorism.

Safeguarding Against Fraud, Exploitation, Threats, Extremism and Consumer Harms Act (proposed)

The [SAFE TECH Act](#) would allow victims to sue companies for enabling cyber-stalking, harassment, and discrimination on their platforms.

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