

117TH CONGRESS
1ST SESSION

H. R. 2000

To amend section 230 of the Communications Act of 1934 to clarify that such section does not prevent a provider or user of an interactive computer service from being treated as the distributor of information provided by another information content provider, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 18, 2021

Mr. BANKS (for himself, Mr. TIFFANY, Mr. RESCHENTHALER, Mr. BARR, Mr. NORMAN, Mr. WEBER of Texas, Mr. BISHOP of North Carolina, Mr. BABIN, and Mr. GIBBS) introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To amend section 230 of the Communications Act of 1934 to clarify that such section does not prevent a provider or user of an interactive computer service from being treated as the distributor of information provided by another information content provider, 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.**

4 This Act may be cited as the “Stop Shielding Cul-
5 pable Platforms Act”.

1 **SEC. 2. FINDINGS; SENSE OF CONGRESS.**

2 (a) FINDINGS.—Congress finds the following:

3 (1) Section 230 of the Communications Act of
4 1934 (47 U.S.C. 230), as added by the Communica-
5 tions Decency Act of 1996 (Public Law 104–104;
6 110 Stat. 133), was enacted to ensure that third
7 parties would not be held liable as the publisher of
8 another entity’s speech, not to allow online platforms
9 to knowingly distribute unlawful materials.

10 (2) Since enacted, section 230 has been mis-
11 interpreted to apply distributor immunity as well as
12 publisher immunity to online platforms. As recently
13 explained by Associate Justice Clarence Thomas in
14 a statement respecting the denial of certiorari in
15 *Malwarebytes, Inc. v. Enigma Software Group USA,*
16 *LLC*, No. 19–1284 (October 13, 2020), “Although
17 the text of §230(c)(1) grants immunity only from
18 ‘publisher’ or ‘speaker’ liability, the first appellate
19 court to consider the statute held that it eliminates
20 distributor liability too—that is, §230 confers immu-
21 nity even when a company distributes content that
22 it knows is illegal.”.

23 (3) This assertion contradicts a plain reading of
24 the Communications Decency Act of 1996, which in-
25 cludes distributor liability for exposing children to
26 obscene material. This ill-conceived precedent, first

1 established in *Zeran v. America Online, Inc.*, 129
2 F.3d 327 (4th Cir. 1997), has resulted in online
3 platforms having little to no responsibility to act as
4 a “good Samaritan”, even when moderating illicit
5 material.

6 (4) It has recently been reported by the New
7 York Times that Pornhub executives believe that
8 section 230 protects them from liability for their
9 platform allegedly hosting videos of rape, child
10 abuse, and other criminal activity.

11 (5) As reported in the New York Post, a recent
12 lawsuit has alleged that Twitter left up a child por-
13 nography video despite being notified by the victim,
14 and only took it down after Federal officials inter-
15 vened.

16 (6) Every American is entitled to equal justice
17 under the law.

18 (b) SENSE OF CONGRESS.—It is the sense of Con-
19 gress that section 230 of the Communications Act of 1934
20 (47 U.S.C. 230) does not provide distributor immunity
21 and does not protect big tech companies when such compa-
22 nies knowingly peddle unlawful material.

23 **SEC. 3. CLARIFICATION OF DISTRIBUTOR LIABILITY.**

24 Section 230(c)(1) of the Communications Act of 1934
25 (47 U.S.C. 230(c)(1)) is amended—

1 (1) by striking “No” and inserting the fol-
2 lowing:

3 “(A) IN GENERAL.—No”; and

4 (2) by adding at the end the following:

5 “(B) NO EFFECT ON TREATMENT AS DIS-
6 TRIBUTOR.—Nothing in subparagraph (A) shall
7 be construed to prevent a provider or user of an
8 interactive computer service from being treated
9 as the distributor of information provided by
10 another information content provider.”.

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