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The SAFE TECH Act (Safeguarding Against Fraud, Exploitation, Threats, Extremism and Consumer Harms Act)

The internet and web have changed dramatically in the 25 years since the enactment of Section 230. This period has seen a shift from a largely decentralized constellation of interest- and affinity-based message boards and online forums (frequently predicated on user-driven moderation), personal and hobbyist websites, and user-driven search and discovery to a more centralized model, mediated by large commercial providers. Entire swathes of economic activity once operated exclusively *offline* have now become internet-enabled, and in many cases predominantly *online*-based and platform-mediated – but (in large measure because of Section 230) without many of the consumer safeguards and civil rights protections that have long attached to these activities and functions.

An original impetus for Section 230 was a state court ruling in 1995 that many consider flawed (and unlikely to have been adopted more broadly), holding an online bulletin board was liable for a user’s defamatory post *because* it moderated some content and had established content guidelines – signifying editorial control. Section 230 provides “interactive computer services” with immunity from liability for the content of their users. And – reversing the poorly-reasoned 1995 case – ensures that these providers retain this broad immunity even when they engage in moderation efforts of user content.

While the law was meant to encourage service providers and users to adopt tools to screen and filter objectionable content, it has instead conferred sweeping immunity on online providers even when they do nothing to address misuse of their products, leaving consumers who suffer harm with little – if any – recourse.

A chilling example of this occurred with the popular online dating service Grindr, which successfully invoked the law to protect its ability to do *nothing* in the face of a court injunction – even as [its tools were a key enabler](#) of cyber-stalking and harassment impersonation campaign that threatened lives. According to leading organizations focused on ending intimate partner violence, such as [online impersonation efforts](#) are widespread – with little that victims can do to address these abusive activities.

The internet has in parallel become a new battleground in the fight to protect hard-won civil rights. As legal scholar Olivier Sylvain has noted, even as online intermediaries directly shape the form and substance of user (both consumer and advertiser) interactions, Section 230 provides companies a “free pass for enabling [unlawful discriminatory conduct](#)” such as racial and gender discrimination in the context of short-term housing rentals, employment advertisements and more.

Separately, the multi-billion dollar online advertising market has become a focal point for scam artists and fraudsters, with online intermediaries turning a blind eye to the ways in which their tools are repeatedly misused by bad actors to prey on vulnerable consumers – steering them to [bogus health care plans](#), exposing them to countless [financial frauds](#), exploiting those seeking medical care, including [drug treatment](#) and [reproductive services](#), and more. With many of these frauds perpetrated by [criminal actors overseas](#), consumers have limited recourse in the wake of platform inaction.

Service providers’ disregard of the misuse of their platforms has produced more than just consumer harm: in many cases, continued – and reckless – inaction of platforms has facilitated pervasive online harassment of BIPOC, LGBTQ+ and religious-minority users. With abusers often shielded by online anonymity and platforms’ neglect of meaningful reporting tools, victims are in large measure left to fend for themselves. A law that was supposed to promote online speech has instead helped bad actors intimidate, bully, and hound some of the most vulnerable and marginalized users from participation in the increasingly online public sphere.

Platforms enjoy legal immunity even where their services are openly used to perpetrate foreseeable and preventable violence. A platform that hosts organizing efforts for armed militia groups making direct calls for violence faces no legal consequences for its actions, even when reported by users [hundreds of times](#) in advance of the tragic events. Similarly, even as platforms repeatedly provide the [recruiting](#) and [organizing tools](#) for violent extremist groups – including serving as the [organizing infrastructure for those](#) engaged in the Capitol siege that led to the deaths of multiple Capitol Police officers – Section 230 shields platforms from any wrongful death action that might seek to hold them responsible for their reckless and sustained inaction as their tools are openly and repeatedly misused.

The SAFE TECH Act would force online service providers to finally address these problems or face potential civil liability. It does so by making clear that Section 230:

- **Doesn't apply to ads or other paid content** – ensuring that platforms cannot continue to profit as their services are used to target vulnerable consumers;
- **Doesn't bar injunctive relief** – allowing victims to seek court orders where misuse of a provider's services is likely to cause irreparable harm;
- **Doesn't impair enforcement of civil rights laws** – maintaining the vital and hard-fought protections from discrimination even when activities or services are mediated by internet platforms;
- **Doesn't interfere with laws that address stalking/cyber-stalking or harassment and intimidation on the basis of protected classes**– ensuring that victims of abuse and targeted harassment can hold platforms accountable when they directly enable harmful activity;
- **Doesn't bar wrongful death actions** – allowing the family of a decedent to bring suit against platforms where they may have directly contributed to a loss of life;
- **Doesn't bar suits under the Alien Tort Claims Act** – potentially allowing victims of platform-enabled human rights violations abroad (like the survivors of the Rohingya genocide) to seek redress in U.S. courts against U.S.-based platforms.

These changes to Section 230 do not guarantee that platforms will be held liable in all, *or even most*, cases. Proposed changes do not subject platforms to strict liability; and the current legal standards for plaintiffs still present steep obstacles. Rather, these reforms ensure that victims have an *opportunity* to raise claims without Section 230 serving as a categorical bar to their efforts to seek legal redress for harms they suffer – even when directly *enabled* by a platform's actions or design.

The SAFE TECH Act reaffirms that vital consumer safeguards and civil rights protections don't end when activity moves online, preventing online providers from continuing to externalize the costs of their scale and mismanagement on the public.