

To the incoming Biden/Harris Administration and the 117th Congress:

In the wake of this latest act of white supremacist violence directed at the U.S. Capitol, it's more urgent than ever that lawmakers take steps to address systemic racism and injustice, and to hold Big Tech companies accountable for their role in undermining democracy and amplifying harmful content. However, repeal of or injudicious changes to Section 230 of the Communications Decency Act would only make the situation worse.

Gutting Section 230 would make it more difficult for web platforms to combat the type of dangerous rhetoric that led to the attack on the Capitol. And certain carve outs to the law could threaten human rights and silence movements for social and racial justice that are needed now more than ever.

Section 230 is a foundational law for free expression and human rights when it comes to digital speech. It makes it possible for websites and online forums to host the opinions, photos, videos, memes, and creativity of ordinary people, rather than just content that is backed by corporations.

The danger posed by uncareful changes to Section 230 is not theoretical. The last major change to the law, the passage of SESTA/FOSTA in 2018, put lives in danger. The impacts of this law were immediate and destructive, limiting the accounts of sex workers and making it more difficult to find and help those who were being trafficked online. This was widely seen as a disaster that made vulnerable communities less safe and led to widespread removal of speech online. Senator Elizabeth Warren and Representative Ro Khanna have sponsored legislation to investigate the harm done by SESTA/FOSTA. Lawmakers should pass this bill and examine past mistakes before modifying Section 230, and should hold hearings on the human rights and civil liberties implications of altering the law before legislating further. Overly broad changes to Section 230 could disproportionately harm and silence marginalized people, whose voices have been historically ignored by mainstream press outlets. For example, social media platforms would be unlikely to host viral videos of police violence that have spurred nationwide uprisings for racial justice if they faced constant litigation from law enforcement for doing so.

We share lawmakers' concerns with the growing power of Big Tech companies and their unwillingness to address the harm their products are causing. Google and Facebook are just some of the many companies that compromise the privacy and safety of the public by harvesting our data for their own corporate gain, and allowing advertisers, racists and conspiracy theorists to use that data to target us. These surveillance-based business models are pervasive and an attack on human rights. But claims that Section 230 immunizes tech companies that break the law, or disincentivizes them from removing illegal or policy-violating content, are false. In fact, Amazon has invoked Section 230 to defend itself against a lawsuit over its decision to drop Parler from Amazon Web Services due to unchecked threats of violence on Parler's platform. Additionally, because Section 230 protects platforms' decisions to remove objectionable content, the law played a role in enabling the removal of Donald Trump from platforms, who could act without fear of excessive litigation.

Repealing Section 230 would make it even harder for platforms to engage in good faith moderation of hateful speech and disinformation. It could lead thousands of smaller companies and alternative platforms to be shut down, therefore crushing competition and making Big Tech even more powerful. This is why Big Tech CEOs like Mark Zuckerberg have said they are open to 230 reforms, because they know it would only reinforce their influence.

We concur that Congress should act to address the harms of Big Tech through meaningful legislative action on data privacy, civil rights and others fronts, and enforcement of existing antitrust laws. But uncared efforts to poke holes in Section 230 could result in the exact opposite outcome. Lawmakers must consider the intersectional consequence that this will have on activists, sex workers, Black and brown communities, Muslim communities, LGBTQ+ folks, disabled people and other marginalized communities before they make a change that could profoundly alter the state of digital free speech and human rights.

The undersigned 70+ organizations:

18 Million Rising
Access Now
Adult Industry Laborers & Artists Association
Advocating Opportunity
Assembly Four
Black and Pink
Black and Pink Massachusetts
CARES - Community AIDS Resource and Educations Services
Carolina Are, Researcher, Activist, Blogger at Blogger On Pole
Common Cause
Community United for Safety and Protection
Convocation Design and Research
COYOTE RI- Call Off Your Old Tired Ethics
Dangerous Speech Project
Data for Black Lives
Defending Rights and Dissent
Erotic Service Providers Legal, Education and Research Project
Equality North Carolina
Fight for the Future
Freedom Network USA
Free Press Action
Friends of Sabeel, North America
Global Forum for Media Development
Global Voices
Hacking//Hustling
Hollaback!
House of Tulip

Ishtar Collective
Indigenous Friends Organization
Institute for Intellectual Property and Social Justice
Institute of Information Cyprus (101.cy)
International League of Advocates
Joy Buolamwini, Founder Algorithmic Justice League
Kairos Action
Lucy Parsons Labs
Media Justice
Michael Karanicolas, Yale Law School Initiative on Intermediaries and Information
Montgomery County (MD) Civil Rights Coalition
Movement Alliance Project
Mpower Change
Muslim Justice League
National Black Justice Coalition
National Center for Lesbian Rights
National Lawyers Guild
Other 98
OpenMedia
Open MIC (Open Media and Information Companies Initiative)
PDX Privacy
PEN America
Popular Resistance
Positive Women's Network - Ohio
Public Knowledge
Prostasia Foundation
Presente.org
Ranking Digital Rights
Reframe Health and Justice
Renata Avila, Race & Technology Fellow, HAI, Stanford University
Sasha Costanza-Chock, Senior Research Fellow, Algorithmic Justice League
Sero Project
Sex Workers' Action Program of Hamilton
S.T.O.P. - The Surveillance Technology Oversight Project
SWOP - Sex Workers Outreach Project
SWOP Behind Bars
SWOP Brooklyn
The 6:52 Project Foundation, Inc.
The Sex Workers Project at the Urban Justice Center
Transgender Law Center
UltraViolet
URGE: Unite for Reproductive & Gender Equity
US People living with HIV Caucus
Wikimedia Foundation

Win Without War

WITNESS

Woodhull Freedom Foundation

X-Lab