

March 9, 2020

Speaker Nancy Pelosi  
Rep. Kevin McCarthy  
Rep. Frank Pallone, Jr.  
Rep. Greg Walden  
Rep. Jerrold Nadler  
Rep. Doug Collins

Sen. Mitch McConnell  
Sen. Charles Schumer  
Sen. Roger Wicker  
Sen. Maria Cantwell  
Sen. Lindsey Graham  
Sen. Dianne Feinstein

Dear Members of Congress:

We teach, or write in, the areas of Internet or media law, regulation and policy. We span the political spectrum. Some of us are social media critics; others are supporters.

Several members of Congress have recently expressed interest in revising 47 U.S.C. § 230 (“Section 230”), the foundational law that protects Internet services from civil and state criminal liability<sup>1</sup> for user-generated content. Section 230’s perceived costs—which are real and which we acknowledge—are frequently highlighted, but Section 230’s crucial benefits often receive less attention. This letter highlights four major benefits that Section 230 produces for the United States and all Internet users.

**1. Job Creation:** The Internet industry is one of our economy’s brightest spots, and Section 230 plays an essential role in powering its economic engine. A 2017 NERA Economic Consulting study indicated that weakening Section 230 and other Internet safe harbors would eliminate over 425,000 jobs and decrease U.S. GDP by \$44 billion annually.<sup>2</sup>

**2. Promoting Small Businesses:** Section 230 deters frivolous and costly lawsuits, and it speeds up resolution when such lawsuits are brought.<sup>3</sup> A 2019 Engine study showed how these procedural advantages can save small businesses tens, or even hundreds of thousands, of dollars of defense costs per bogus lawsuit.<sup>4</sup> These savings reduce the exposure of small online businesses to ruinous litigation and encourage the next generation of start-up businesses aspiring to disrupt the current Internet incumbents.

**3. Market Efficiency:** Section 230 strengthens markets in at least two ways. First, Section 230 has spurred the creation of new online marketplaces that previously were infeasible due to high transaction costs. Second, Section 230 played an essential role in the emergence of consumer

---

<sup>1</sup> Section 230 does not apply to federal criminal prosecutions.

<sup>2</sup> <https://cdn1.internetassociation.org/wp-content/uploads/2017/06/Economic-Value-of-Internet-Intermediaries-the-Role-of-Liability-Protections.pdf>

<sup>3</sup> [https://scholarship.law.nd.edu/cgi/viewcontent.cgi?article=1074&context=ndlr\\_online](https://scholarship.law.nd.edu/cgi/viewcontent.cgi?article=1074&context=ndlr_online)

<sup>4</sup>

<https://static1.squarespace.com/static/571681753c44d835a440c8b5/t/5c6c5649e2c483b67d518293/1550603849958/Section+230+cost+study.pdf>

reviews, which in turn improve consumer decision-making<sup>5</sup> and steer consumers towards quality businesses and away from shady ones.

**4. Fostering Free Speech for All:** Section 230 helps all speakers reach a global audience, including activists and speakers from marginalized communities, who historically have found themselves excluded from public discourse. This has led to the proliferation of information sharing and supporting communities that previously lacked adequate informational resources. As Elliot Harmon wrote, “[Section 230 is] a gift to rural LGBTQ teenagers who depend every day on the safety of their online communities. It’s a gift to activists around the world using the internet to document human rights abuses....Section 230’s real beneficiaries are the historically disadvantaged communities that would risk exclusion from online discussions without it.”<sup>6</sup>

In sum, despite its costs, Section 230 has an extraordinarily positive impact on our society. Many Americans interact with and benefit from Section 230-facilitated services literally on an hourly or even minute-by-minute basis. As Congress takes a closer look at Section 230, we urge it to avoid unanticipated or unwanted consequences that might negate the critical benefits we currently derive from Section 230, or lead to greater consolidation of communication power in a few leading platforms.

Thank you for your time, consideration, and efforts to develop balanced policy.

Prof. Eric Goldman  
Santa Clara University School of Law  
egoldman@gmail.com

Prof. David S. Levine  
Elon University School of Law  
dlevine3@elon.edu

\* \* \*

Additional Signatories (all affiliations are only for identification purposes):

David Abrams, Harvard University  
Enrique Armijo, Elon University School of Law  
Patricia Aufderheide, American University School of Communication  
Thomas C. Arthur, Emory University School of Law  
Derek E. Bambauer, University of Arizona, James E. Rogers College of Law  
Nina I. Brown, S.I. Newhouse School of Public Communications, Syracuse University  
Anupam Chander, Georgetown University Law Center  
Colleen Chien, Santa Clara University School of Law  
Connie Davis Nichols, Baylor Law  
Sean Flynn, American University Washington College of Law  
A. Michael Froomkin, University of Miami  
Brian L. Frye, University of Kentucky College of Law

---

<sup>5</sup> For example, 85% of consumers said they would be less likely to buy things online without consumer reviews; and 79% said that good consumer reviews got them to buy a product they were otherwise undecided about.

<sup>6</sup> [https://internetassociation.org/files/ia\\_best-of-the-internet-survey\\_06-26-2019\\_content-moderation/](https://internetassociation.org/files/ia_best-of-the-internet-survey_06-26-2019_content-moderation/)  
<https://thehill.com/opinion/technology/458227-in-debate-over-internet-speech-law-pay-attention-to-whose-voices-are>

Elizabeth Townsend Gard, Tulane University Law School  
Llewellyn Joseph Gibbons, University of Toledo College of Law  
G.S. Hans, Vanderbilt University Law School  
Laura A. Heymann, William & Mary Law School  
Gus Hurwitz, University of Nebraska College of Law  
Daphne Keller, Stanford University  
Kathryn Kleiman, American University Washington College of Law  
Christopher Koopman, Utah State University  
Stacey M. Lantagne, The University of Mississippi School of Law  
Jyh-An Lee, The Chinese University of Hong Kong Faculty of Law  
Mark A. Lemley, Stanford Law School  
Yvette Joy Liebesman, Saint Louis University School of Law  
Katja Weckström Lindroos, UEF Law School, University of Eastern Finland  
Yong Liu, Hebei Academy of Social Sciences in China  
Daniel Lyons, Boston College Law School  
Phil Malone, Stanford Law School  
Irina D. Manta, Maurice A. Deane School of Law at Hofstra University  
Stephen McJohn, Suffolk University Law School  
William Moner, Elon University  
David Cristian Morar, George Washington University, Elliott School  
Frederick Mostert, Dickson Poon School of Law, King's College, London  
Ira Steven Nathenson, St. Thomas University School of Law (Florida)  
Art Neill, California Western School of Law  
Riana Pfefferkorn, Stanford Center for Internet and Society  
David G. Post, Beasley School of Law, Temple University (retired)  
Betsy Rosenblatt, U.C. Davis School of Law  
Pamela Samuelson, Berkeley Law School  
Xiyin Tang, UCLA School of Law  
Habib Sani Usman, American University of Nigeria  
John Villasenor, UCLA School of Law  
Eugene Volokh, UCLA School of Law  
Jeff Ward, Duke School of Law