

**Disincentivizing Internet Service Censorship of Online Users and
Restrictions on Speech and Expression (DISCOURSE) Act**
Senator Marco Rubio

Section 1: Short Title

Section 2: Content Moderation, Creation, Development and Distribution:

- **Holds Big Tech responsible for complying with Section 230's existing obligations:**
 - Amends 230(c)(1) so that immunity guaranteed under the provision is only granted to Big Tech firms that comply with Section 230's existing customer protection and information requirement.
- **Amends Section 230(f)(3) to include the following activities for which an interactive computer service is defined as an "Information content provider" and is thus responsible for the information on its platform:**
 1. **Algorithmic amplification:** The use of algorithmic amplification by a market-dominant firm to target the third party provided content to users on the platform when the user has not requested or searched for the content.
 2. **Moderation activity:** Engaging in content moderation activity that reasonably appears to express, promote, or suppress a discernible viewpoint, including reducing or eliminating the ability of an information content provider to earn revenue.
 3. **Information creation and development:** Soliciting, commenting on, funding, contributing to, and modifying information provided by another person.

For each of these categories, an interactive computer service is responsible for specific information if it has engaged in any of the actions with respect to any user content. However, if the company engages in a pattern or practice of such behavior, it is liable for all of the content on its site.

- **Amends Section 230(c)(2) to replace vague and subjective language with defined and legal terms:**
 - Conditions the content moderation liability shield on an objective reasonableness standard. In order to be protected from liability, a tech company may only restrict access to content on its platform where it has "an objectively reasonable belief" that the content falls within a specified category;
 - Removes "otherwise objectionable" and replaces it with concrete terms, including "promoting terrorism," content that is determined to be "unlawful," and content that promotes "self-harm."
 - Includes a religious liberty clause, which states explicitly that (c)(2) does not extend liability protections to decisions that restrict content based on their religious nature.
- **Requires disclosures to inform and protect consumers:**
 - Requires interactive computer services to issue public disclosures related to content moderation, promotion, and curation so that consumers can make informed choices when it comes to the use of such services.
- **Clarifies that Section 230 immunity is an affirmative defense in a criminal or civil action.**