

United States Senate

WASHINGTON, DC 20510-0908

June 9, 2020

The Honorable Ajit Pai
Chairman
Federal Communications Commission
455 12th Street, SW
Washington, D.C. 20554

Dear Chairman Pai:

We write regarding the role of the Federal Communication Commission (FCC) in the recently signed *Executive Order on Preventing Online Censorship*. The unequal treatment of different points of view across social media presents a mounting threat to free speech. This Executive Order is an important step in addressing this form of censorship.

Section 230 of the Communications Decency Act shields social media platforms from the liability imposed on publishers when they act in “good faith” to restrict access to or remove certain objectionable materials. However, the protections afforded by Section 230 are not absolute or unconditional. While social media companies enjoy their special status under Section 230, it is questionable that they are living up to their obligations when they blur the lines between distributor and publisher by favoring one political point of view over another.

While the President has the means to push back on unfair treatment, we worry about everyday Americans who are sidelined, silenced, or otherwise censored by these corporations. Social media companies, whose protections come from their acting as distributors, not publishers, have increasingly engaged in partisan editorializing, censorship of Chinese dissidents, and a host of politically motivated speech policing. While these actions speak for themselves, companies continue to enjoy Section 230 protections due to a lack of clear rules and judicial expansion of the statute.

Social media companies have become involved in a range of editorial and promotional activity; like publishers, they monetize, edit, and otherwise editorialize user content. It is time to take a fresh look at Section 230 and to interpret the vague standard of “good faith” with specific guidelines and direction. In addition, it appears that courts have granted companies immunity for editing and altering content even though the text of Section 230 prohibits immunity for any content that the company “in part . . . develop[s].” These interpretations also deserve a fresh look. We therefore request that the FCC clearly define the framework under which technology firms, including social media companies, receive protections under Section 230.

We look forward to working with you on this important issue.

Sincerely,

Handwritten signature of Marco Rubio in black ink.

Marco Rubio
U.S. Senator

Handwritten signature of Kelly Loeffler in blue ink.

Kelly Loeffler
U.S. Senator

Handwritten signature of Kevin Cramer in blue ink.

Kevin Cramer
U.S. Senator

Handwritten signature of Josh Hawley in blue ink.

Josh Hawley
U.S. Senator