

# Senator Hawley Introduces Legislation to Amend Section 230 Immunity for Big Tech Companies

**WASHINGTON** – Today U.S. Senator Josh Hawley (R-Mo.) introduced the *Ending Support for Internet Censorship Act*, a major update to the way big tech companies are treated under Section 230 of the Communications Decency Act (CDA).

Sen. Hawley's legislation removes the immunity big tech companies receive under Section 230 unless they submit to an external audit that proves by clear and convincing evidence that their algorithms and content-removal practices are politically neutral. Sen. Hawley's legislation does not apply to small and medium-sized tech companies.

*"With Section 230, tech companies get a sweetheart deal that no other industry enjoys: complete exemption from traditional publisher liability in exchange for providing a forum free of political censorship," said Sen.*

***Hawley.** "Unfortunately, and unsurprisingly, big tech has failed to hold up its end of the bargain."*

*"There's a growing list of evidence that shows big tech companies making editorial decisions to censor viewpoints they disagree with. Even worse, the entire process is shrouded in secrecy because these companies refuse to make their protocols public. This legislation simply states that if the tech giants want to keep their government-granted immunity, they must bring transparency and accountability to their editorial processes and prove that they don't discriminate."*

## BACKGROUND

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The Communications Decency Act protects companies from liability for illegal content posted by third parties. Congress passed this law in 1996 when the Internet was in its infancy and Congress was concerned that subjecting hosting platforms to the same civil liability as all other businesses would chill their growth.

But the Internet has long passed its infancy. The largest and most powerful companies today are big tech companies. And they have enormous resources and advanced algorithms that they can use to help them moderate content. Those companies should not receive this government subsidy free of any responsibility.

Because these companies control the very information we receive, we must ensure that they moderate content in a politically neutral manner. Today's most powerful companies must not be allowed to interfere with the policy Congress established, when passing the CDA, to ensure "a forum for a true diversity of political discourse." 47 U.S.C. § 230(a)(3).

It is time to shine light onto what big tech companies do and force them to provide transparency about their content moderation practices.

## **What Senator Hawley's bill does**

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- Removes automatic immunity under Section 230 from big tech companies
- Gives big tech companies the ability to earn immunity through external audits
  - Big tech companies would have to prove to the FTC by clear and convincing evidence that their algorithms and content-removal practices are politically neutral
  - The FTC could not certify big tech companies for immunity except by a supermajority vote
  - Big tech companies would be responsible for the cost of conducting audits
  - Big tech companies would have to reapply for immunity every two years
- Preserves existing immunity for small and medium-sized companies
  - The bill applies only to companies with more than 30 million active monthly users in the U.S., more than 300 million active monthly users worldwide, or who have more than \$500 million in global annual revenue