

CONGRESSIONAL TESTIMONY

Holding Big Tech Accountable: Targeted Reforms to Tech’s Legal Immunity

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My name is Kara Frederick. I am a Research Fellow for Technology Policy at The Heritage Foundation. The views I express in this testimony are my own and should not be construed as representing any official position of The Heritage Foundation.

Background

Social media companies were ostensibly created to democratize access to information and give ordinary citizens a voice in the public square. Today, reality has proven much different.

In Facebook’s case, as recently as 2019, representatives of the company came out strong in their stated desire to "stand up for freedom of expression."² CEO Mark Zuckerberg's refrain that "more speech" is the best antidote to "bad speech," his repeated desire to *not* be an arbiter of truth, and additional support for free speech during a 2019 address at Georgetown University articulated a different vision for Facebook's content moderation practices than those implemented since.³

Actions taken by Facebook and other Big Tech companies like Google and Twitter in the past two years demonstrate a marked departure from these

values.

Special privileges from the government—in the form of immunity from civil liability under Section 230 of the 1996 Communications Decency Act—enable the betrayal of these values.

Big Tech companies have moved far afield from Congress’ original intent in crafting the legislation and are now acting as publishers of information—retaining the benefits of being a publisher without the legal responsibility. As Federal Communications Commission (FCC) commissioner Brendan Carr notes, Section 230 amounts to a “unique regulatory legal advantage for one set of political actors.”⁴ These actors, primarily Big Tech companies, are abusing this privilege through continued viewpoint censorship, opaque content moderation decisions, inconsistent application of vague rules, and a lack of transparency and genuine recourse for their users.

The outlook is not sanguine. A lack of accountability and the “sweeping immunity” conferred on Big Tech by broad interpretations of Section 230 over the years has emboldened these companies to abuse their concentrations of power and increase their symbiotic relationships with the federal government, constrict

the digital lives of those who express specific political views, and sharpen digital surveillance on ordinary Americans.⁵ Put simply, Big Tech companies are not afraid of the American people or meaningful checks on their abuse of power. And it shows.

To help rectify this, targeted reforms of Section 230 should be enacted—at bare minimum. The “twenty six words that created the internet” have outlived their original purpose. Section 230 is in need of a refresh.¹

Impact on the Body Politic: Information Access, Manipulation, and the Culture of Free Speech

The scale and reach of these digital platforms render them transformative—they control the flow of information in such an expansive way as to fundamentally shape the public square. This is embodied in Big Tech’s willingness to: leverage their market dominance to shut off direct access to digital information, engage in a demonstrated pattern of information manipulation, and adversely impact America’s culture of free speech.

Information Access

Practically, these companies’ positions as global oligopolies translate into the ability to limit access to information. Not all censorship is created equal. Censorship conducted at the cloud hosting infrastructure or internet service provider (ISP) level severely curtails direct access to digital viewpoints and actors who run afoul of these providers. By controlling these lower levels of the technical stack upon which many other levels (like digital platforms and applications) depend, a small group of unelected tech executives can pull the plug on entire companies—with very limited recourse.

The case of Twitter competitor Parler in January of 2021 illustrates how this can happen. Google and Apple removed Parler from their stores at the application layer of the technology stack after the January 6th Capitol riots. But it was not until Amazon Web Services declined to host the Parler platform at a lower level of the stack (cloud hosting infrastructure) that it suddenly ceased to exist on the internet as originally conceived. Parler, then the most downloaded application in Apple’s app store and a Big Tech competitor popular with conservatives, has yet to reach even 4 percent of the

users it gained immediately before its deplatforming.⁶

Information Manipulation

Information manipulation by Big Tech companies is also rampant. The litany of suspensions of ordinary Americans by Big Tech platforms for expressing right-leaning political views grows by the day.⁷ The Media Research Center (MRC) in October 2021 determined that Twitter and Facebook censor Republican members of Congress at a rate of 53-to-1 compared to Democrats in Congress.⁸ The same month, *The Wall Street Journal* published leaked documents that revealed Facebook created and used two internal tools that suppressed right wing content, media traffic, and reach on its site in the aftermath of Donald Trump’s 2016 presidential victory. Facebook’s research concluded that if the tools were removed, “very conservative” traffic would increase by tens of percentages.⁹ The platform still uses one of these tools as of October 2021. Further, in 2020, an independent media company assessed that Google likely suppressed conservative media outlets during the lead up to the 2020 presidential election.¹⁰ In one example, the company’s analysis of third-party data suggests that *Breitbart*’s Google search visibility shrank by 99 percent during the 2020 presidential election cycle, compared to the same period in 2016.¹¹

This occurs as the Taliban, Iran’s supreme leader, North Korean officials, and Chinese Communist Party spokesmen spew propaganda, antisemitism, and genocidal rhetoric on the American-owned platforms of their choosing.¹²

Such manipulation has direct political implications. In November 2020, another MRC study found that 1 in 6 Biden voters claimed they would have modified their vote had they been aware of information actively suppressed by tech companies—information unfavorable to President Biden and supportive of President Trump.¹³ In October of this year, a poll by McLaughlin & Associates indicated that 52 percent of Americans believe social media companies’ suppression of the Hunter Biden laptop story constituted election interference.¹⁴

Culture of Free Speech

At a more abstract level, despite arguments focused

on Big Tech as private companies within their rights to ban users, America's *culture* of free speech is at issue. Distinctly American norms and values flow from a set of rights guaranteed by the Constitution and embedded in our culture, which includes free speech. Even the American Civil Liberties Union (ACLU)—not the friends of free expression they once were—is worried about this infringement by tech companies. For instance, ACLU's Senior Legislative Counsel stated in January that:

“it should concern everyone when companies like Facebook and Twitter wield the unchecked power to remove people from platforms that have become indispensable for the speech of billions....”¹⁵

Russian dissident Alexei Navalny, German chancellor Angela Merkel, and Mexico's president Andrés Manuel López Obrador—none of whom are particularly sympathetic to American conservatives—also spoke out about the threats this abuse of consolidated power poses to freedom of expression writ large.¹⁶

Further, this culture of free speech is threatened by the increasing symbiosis between Big Tech and the government. By its own admission, the Biden Administration is pressuring private tech companies to take down content under a broad and politically biased definition of “misinformation.”¹⁷ The Administration is also vocal about its plans to push Big Tech companies to ban users across all private platforms if banned by one company.¹⁸

Americans are thus right to point to an erosion of trust in these companies' ability to be neutral gatekeepers of information. For example, a summer 2020 Pew poll found that roughly three-quarters of adult Americans believe “social media sites intentionally censor political viewpoints that they find objectionable.”¹⁹

A healthy body politic depends on the genuine exchange of ideas. It is 2021 and the verdict is in: Big Tech companies' willingness to suppress specific points of view is corrosive to a free, American society.

Material Effects on Children

In addition to political impacts, internal Facebook research revealed in 2021 that Big Tech's practices result in measurable, deleterious effects on young citizens. As companies compete for younger and younger portions of the market, the “race to the bottom” is in full swing.²⁰ Newer companies are vying for footholds as others hemorrhage users in this demographic. For instance, *The Wall Street Journal* reporting on Facebook's internal research suggests that in the United States, the number of teens who use Facebook every day fell by 19 percent in the past two years and was projected to fall an additional 45 percent by 2023.²¹ In a similar period, Facebook set a multi-year goal to create products specifically for *preteens*, considering them a “valuable but untapped audience.”²²

Later, in March 2021, Facebook revealed it intended to create an Instagram for children under 13 years old.²³ (It already has a 6- to 12-year-old focused Messenger app.²⁴) YouTube Kids invoked children as young as three years old in its rollout in 2015.²⁵ Up and comers like TikTok, owned by a Beijing-based parent company, are deliberately courting younger markets. According to Statista, 62 percent of TikTok users in the United States are between 10-29 years old in 2021 and skewing younger.²⁶ Last year, a Pew Research Center survey found that among 9-to-11-year-olds, 30 percent of their parents claim their child uses TikTok, 22 percent of parents estimate their kids use Snapchat, 11 percent Instagram, and 6 percent assess their children are on Facebook.²⁷

This is significant due to the toxic effects of these platforms on American youth. According to Facebook's own research from 2019 to 2020, 32 percent of teenage girls said that “when they felt about their bodies, Instagram made them feel worse,” 6 percent of teen Instagram users who reported suicidal thoughts traced their emergence directly to Instagram, and 1 in 3 teen girls said Instagram made their body image issues worse.²⁸

These platforms also portend broader social impacts. According to *The Wall Street Journal*, teenage girls in the United States, the United Kingdom, Canada, and Australia are likely developing verbal and physical tics by watching influencers on TikTok who

exhibit the same habits. In one case, Texas Children’s Hospital reported incidents of approximately 60 teens with these behaviors, compared to one to two cases pre-pandemic.²⁹ Every reported incident of an uptick involved the use of TikTok, according to the *Journal’s* assessment. Author Abigail Shrier also documents social media’s influence on social contagions de rigueur, stating these sites offer an “endless supply of mentors” to fan the flames of gender dissatisfaction in teen girls.³⁰

Companies like Facebook are aware of these impacts yet continue to double down and expand efforts targeted at children.³¹ Google-owned YouTube easily absorbed a \$170 million fine by the Federal Trade Commission (FTC) and the state of New York in 2019 for collecting data on children younger than 13 without parental permission.³² In fact, after research on Instagram’s toxic effects on young girls was made public, the head of Instagram declared publicly that “building ‘Instagram Kids’ is the right thing to do.”³³

Americans should be aware of and push back against these efforts to tear at the moral fabric of our society at any cost, starting in kindergarten. As Republican Rep. Bill Johnson said at a Congressional hearing in March 2021: “Big Tech is essentially giving our kids a lit cigarette and hoping they stay addicted for life.”³⁴

Underpinning all of this is the fact that these tech companies continue to benefit from special liability protections from the federal government.

Potential Pitfalls

In attempts to hold Big Tech accountable for this behavior, Congress should avoid one pitfall in particular: calls to further suppress content based on politically expedient and expansive definitions of “harm” and “dis/misinformation.” Conservatives must hold these companies to account for their censorship, not encourage *more* censorship at the hands of Big Tech and the government.

The entity that defines what content is “harmful” or “dis/misinformation” is critical. Right now, Big Tech’s current definitions are often mutable, overly

broad, and used as a catchall for “views we don’t like.” For example, the theory that COVID-19 could have originated from a Wuhan Institute of Virology leak in China was suppressed by an array of digital platforms yet is now considered part of acceptable discourse.³⁵ The *New York Post’s* Hunter Biden-Ukraine laptop story was labeled Russian misinformation and actively censored by Facebook and Twitter before Hunter Biden went public and failed to deny his ownership of the laptop.³⁶

Pushing companies to crack down on free expression and expanding “oversight” by the government to police speech will continue to restrict free inquiry and accelerate the digital stratification of America already underway.³⁷

Holding Big Tech accountable should result in *less* censorship, not more.

Further, this focus on “harm” comes at the expense of bigger problems. As Facebook’s vice president of state public policy noted this year, the platform “[allows] people to share information about how to enter a country illegally or request information about how to be smuggled.”³⁸ Human traffickers, foreign, Islamist terrorists and their cheerleaders, and drug cartels also proliferate on the platform, in violation of these companies’ own policies.³⁹ Policing such content should be prioritized over targeting of nebulous conceptions of “misinformation.”⁴⁰

The Way Forward

Any proposals to hold Big Tech companies accountable should empower citizens to redress the imbalance between the companies and their users.

At a minimum, Congress should:⁴¹

Use the First Amendment as the standard from which all Section 230 reforms flow.⁴²

- American lawmakers have a duty to protect and defend the inalienable rights given to us by God and enshrined in our Constitution by the Founders. Rights—to include free speech—that specific tech companies, in conjunction with the government, are actively and deliberately eroding. The argument that private companies do not bear

free speech responsibilities ignores current overt collaboration and communication between government and Big Tech companies that work together to stifle free expression.⁴³ While private companies may have the right to exclude content from their platforms, they should not be immune from civil liability for altering content posted by others. This includes adding truth banners, labeling, suppressing, or removing content that is entirely legal but which they consider “objectionable.”⁴⁴

Any reforms to Section 230 should proceed with this in mind.

Reform Section 230 in the following ways:

- Strip immunity if tech companies censor based on political views. When tech companies act as publishers and restrict content based on political opinion or association, these actions are inconsistent with the liability protections codified within Section 230 or Congress’s intent when it passed the legislation. Big Tech companies should not receive liability protection against lawsuits in such instances.
- Strike the phrase “otherwise objectionable” from Section 230(c)(2)(a).
- Build in a sunset clause to address appropriate Section 230 reform *at least* every 7 years.⁴⁵

Hold tech companies accountable for inconsistent application of policies via the judicial system.

- Examine discrepancies between advertised mission statements, terms of service, and policies and implementation as possible cases of fraud and/or “breach of contract.” If companies claim they are for free speech and are acting in a politically neutral manner, then they should prove it. They should be held accountable if they, in fact, are not.⁴⁶
- Companies should implement a user-friendly appeals process to provide prompt and meaningful recourse for users who are wrongfully targeted for their speech.⁴⁷

Incentivize transparency.

- Companies should report content moderation methodology and decisions to the FTC, with a public availability component. For example, some tech companies post quarterly, public reports on the enforcement of their community standards.⁴⁸ These should be more granular and cover content moderation decisions, practices, and behaviors related to free expression (e.g., wrongful or erroneous take-downs, such as Amazon’s prohibition of ads for Heritage scholar Mike Gonzalez’s book *BLM: The Making of a New Marxist Revolution*).⁴⁹ Other major tech companies should follow suit. As the Biden White House admits its collusion with Big Tech to remove content, this push is a good starting point to incentivize transparency.
 - With regard to enforcement, the FTC and like government agencies exist, in part, to enforce the law.⁵⁰ Policymakers should be able to use these organizations to address and deter political discrimination without expanding and weaponizing federal government power.
- Remove liability protection when companies censor based on political views. Allow American citizens genuine recourse in court to prove their case against Big Tech censorship.
- Incentivize algorithmic transparency. Too often, Big Tech companies hide behind their algorithms to justify censorship.⁵¹ Yet programmers and other personnel dictate the design and implementation of those algorithms. Users have a right to information on this main ingredient of the product they use.⁵² Transparency reports should include how these companies’ algorithms operate and affect users, including details on the impact of any ad-hoc changes within reporting periods.
- Account for the scale and reach of tech companies. Big Tech companies, aided by Section 230’s liability shield, flourished in the late 1990s and early 2000s. They were able to cement first mover advantage in a technical sense—accruing data and refining

algorithms, etc. over decades to improve the products Americans use today. Changes to Section 230 should not cement these technical advantages (which, in some instances, have compounded after their initial accrual with government help) and entrench a handful of companies within the market at the expense of competitors. Instead, reforms should be made with the understanding that changes to legislation will impact new entrants or smaller companies differently than Big Tech companies.⁵³

- Articulate the expectation of accountability, transparency, and fair treatment for all users. This can look like:
 - Platforms providing users with clear terms of use, an even-handed application of public community standards, and transparency in content moderation practices. This includes immediately notifying users when their content violates company terms or policies, clearly indicating which terms or policies have been violated, and offering genuine recourse to appeal a violation.

Institute additional mechanisms for user control.

- U.S. tech sector leaders must make firm commitments to implementing efforts like third party algorithm use, and not just hint at them in front of Congress.⁵⁴

Look outside Washington, D.C.

- While these adjustments are well-suited to address this moment through a conservative framework, focused Section 230 reform is not a silver bullet to righting Big Tech’s wrongs. A full spectrum of action is necessary. A simultaneous, multipronged approach to securing freedom of expression in the digital world includes promoting the principles of federalism through constitutional state legislative action, efforts by technologists to build platforms where freedom of expression is protected, as well as revivifying civil society efforts to promote transparency within these companies.

The government gave tech companies an inch with Section 230, and they took a mile. It is past time to rein in their ability to squelch valuable—indeed essential—public discourse by clarifying the law.

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¹The concepts and recommendations throughout this testimony are drawn from the author’s previous working papers and publications, including but not limited to: Kara Frederick, “Big Tech’s Totalitarian Trends,” Heritage Foundation (publication expected December 2021), Kara Frederick, “The Infodemic: Regulating the New Public Square,” *Observer Research Foundation*, April 22, 2021, <https://www.orfonline.org/expert-speak/infodemic-regulating-new-public-square/> (accessed November 28, 2021), as well as the author’s media appearances from 2019–2021.

² Tony Romm, “Zuckerberg: Standing For Voice and Free Expression,” *The Washington Post*, October 17, 2019, <https://www.washingtonpost.com/technology/2019/10/17/zuckerberg-standing-voice-free-expression/> (accessed November 30, 2021).

³ Tom McCarthy, “Zuckerberg says Facebook won’t be ‘arbiters of truth’ after Trump threat,” *The Guardian*, May 28, 2020, <https://www.theguardian.com/technology/2020/may/28/zuckerberg-facebook-police-online-speech-trump> (accessed November 30, 2021).

⁴ Allison Schuster, “FCC Commissioner Brendan Carr Argues Section 230 Reform Is Necessary,” *The Federalist*, June 23, 2020, <https://thefederalist.com/2020/06/23/fcc-commissioner-brendan-carr-argues-section-230-reform-is-necessary/> (accessed November 30, 2021).

⁵ Clarence Thomas, “Statement of Justice Clarence Thomas: MALWAREBYTES, INC. v. ENIGMA SOFTWARE GROUP USA, LLC,” October 13, 2020, U.S. Supreme Court, p.1 & 9, https://www.supremecourt.gov/orders/courtorders/101320zor_8m58.pdf (accessed November 30, 2021).

⁶ Robert Hart, “Parler’s Popularity Plummet As Data Reveals Little Appetite For Returning ‘Free Speech’ App Favored By Conservatives,” *Forbes*, June 2, 2021, <https://www.forbes.com/sites/roberthart/2021/06/02/parlers-popularity-plummet-as-data-reveals-little-appetite-for-returning-free-speech-app-favored-by-conservatives/?sh=505ef8e85e13> (accessed November 30, 2021).

⁷ David Rutz, “YouTube Removes Video Georgia Mother Criticizing Mask Mandates for Children: ‘Medical Misinformation’,” *Fox News*, May 27, 2021, <https://www.foxnews.com/media/youtube-takes-down-video-georgia-mother-mask> (accessed November 3, 2021); Megan Basham, “Twitter Suspends Conservative Pundit Allie Beth Stuckey for Stating That Transgender Weightlifter Is a Man,” *Daily Wire*, August 11, 2021, <https://www.dailywire.com/news/twitter-suspends-conservative-pundit-allie-beth-stuckey-for-stating-that-transgender-weightlifter-is-a-man> (accessed November 3, 2021); Taylor Hatmaker, “Google and YouTube say they won’t allow ads or monetized content pushing climate denial,” *Tech Crunch*, October 7, 2021, <https://techcrunch.com/2021/10/07/google-youtube-climate-change-denial-ban/> (accessed November 1, 2021).

⁸ Alec Schemmel, “53-to-1: Big Tech Censors GOP Members of Congress Tons More than Democrats,” *MRC NewsBusters*, September 21, 2021, <https://newsbusters.org/blogs/free-speech/alec-schemmel/2021/09/21/53-1-big-tech-censors-gop-members-congress-tons-more> (accessed October 13, 2021); and Frederick, “Big Tech’s Totalitarian Trends.”

⁹ Keach Hagey and Jeff Horowitz, “Facebook’s Internal Chat Boards Show Politics Often at the Center of Decision making,” *The Wall Street Journal*, October 24, 2021, <https://www.wsj.com/articles/facebook-politics-decision-making-documents-11635100195> (accessed November 1, 2021).

¹⁰ Maxim Lott, “Google Pushes Conservative News Sites Far Down Search Lists,” *RealClear Politics*, September 20, 2020, https://www.realclearpolitics.com/articles/2020/09/20/google_pushes_conservative_news_sites_far_down_search_lists_144246.html (accessed on November 3, 2021).

¹¹ Allum Bokhari, “Election Interference: Google Purges Breitbart From Search Results,” *Breitbart*, July 28, 2020, <https://www.breitbart.com/tech/2020/07/28/election-interference-google-purges-breitbart-from-search-results/> (accessed November 1, 2021).

¹² Brandon Gillespie, “MSNBC’s Rachel Maddow flamed for not deleting false tweet about Oklahoma hospitals: ‘Queen of misinformation’,” *Fox News*, September 7, 2021, <https://www.foxnews.com/media/msnbc-rachel-maddow-flamed-tweet-false-claims-overrun-oklahoma-hospitals>; Joe Concha, “‘Strikingly sophisticated’ Taliban thrive on Twitter while Trump still banned,” *The Hill*, August 20, 2021, <https://thehill.com/opinion/technology/568701-strikingly-sophisticated-taliban-thrive-on-twitter-while-trump-still> (accessed November 4, 2021); Yaron Steinbuch, “Twitter users slam platform for not banning Iran’s Ayatollah Khamenei,” *New York Post*, May 12, 2021, <https://nypost.com/2021/05/12/twitter-users-calls-for-ban-of-irans-ayatollah-khamenei/> (accessed November 4, 2021); and Victor Ordonez, “Chinese Embassy tweet about Uighurs and birth rate draws instant condemnation,” *ABC News*, January 8, 2021, <https://abcnews.go.com/International/chinese-embassy-tweet-uighurs-birth-rate-draws-instant/story?id=75118569> (accessed November 4, 2021).

¹³ Media Research Center, “Biden Voter Messaging Survey Analysis,” November 2020, https://cdn.mrc.org/TPC-MRC+Biden+Voter+Messaging+Survey+Analysis+Nov+2020_final.pdf (accessed September 8, 2021); and Shannon Bond, “Facebook and Twitter Limit Sharing ‘New York Post’ Story About Joe Biden,” *National Public Radio*, October 14, 2020, <https://www.npr.org/2020/10/14/923766097/facebook-and-twitter-limit-sharing-new-york-post-story-about-joe-biden> (accessed November 1, 2021).

¹⁴ McLaughlin and Associates, “National Survey: General Election Likely Voters Political Environment, Trends and Analysis,” October 2021, <https://mclaughlinonline.com/pols/wp-content/uploads/2021/10/National-Monthly-October-Release-1.pdf> (accessed November 29, 2021).

¹⁵ Ryan Lovelace, “ACLU Raises Concerns Amid Trump Twitter Ban,” *The Washington Times*, January 8, 2021, <https://www.washingtontimes.com/news/2021/jan/8/aclu-raises-concerns-amid-trump-twitter-ban/> (accessed November 29, 2021).

¹⁶ Jon Levine, “Russian Dissident Alexei Navalny Blasts Twitter for Ban,” *New York Post*, January 9, 2021, <https://nypost.com/2021/01/09/russian-dissident-alexei-navalny-blasts-twitter-for-trump-ban/> (accessed November 29, 2021); Guy Chazan, Henry Foy and Hannah Murphy, “Angela Merkel attacks Twitter over Trump ban,” *The Financial Times*, January 11, 2021, <https://www.ft.com/content/6146b352-6b40-48ef-b10b-a34ad585b91a> (accessed November 29, 2021); and Dave Graham, “Mexico President Slams Social Media ‘Censorship’ After Chaos in Capitol,” *Reuters*, January 7, 2021, <https://www.reuters.com/article/us-usa->

[election-mexico/mexico-president-slams-social-media-censorship-after-chaos-in-u-s-capitol-idUSKBN29C1OY](#) (accessed November 29, 2021).

¹⁷ Jen Psaki, “Press Briefing by Press Secretary Jen Psaki, July 16, 2021,” James S. Brady Press Briefing Room, Washington, D.C.; July 16, 2021, <https://www.whitehouse.gov/briefing-room/press-briefings/2021/07/16/press-briefing-by-press-secretary-jen-psaki-july-16-2021/> (accessed September 8, 2021).

¹⁸ Jen Psaki and Surgeon General Dr. Vivek H. Murthy, “Press Briefing by Press Secretary Jen Psaki and Surgeon General Dr. Vivek H. Murthy, July 15, 2021,” James S. Brady Press Briefing Room, Washington, D.C.; July 15, 2021, <https://www.whitehouse.gov/briefing-room/press-briefings/2021/07/15/press-briefing-by-press-secretary-jen-psaki-and-surgeon-general-dr-vivek-h-murthy-july-15-2021/> (accessed November 4, 2021).

¹⁹ Pew Research Center, “Most Americans Think Social Media Sites Censor Political Viewpoints,” August 19, 2020, <https://www.pewresearch.org/internet/2020/08/19/most-americans-think-social-media-sites-censor-political-viewpoints/> (accessed November 29, 2021).

²⁰ Hearing, Protecting Kids Online: Snapchat, TikTok, and YouTube, Subcommittee on Consumer Protection, Product Safety, and Data Security, U.S. Committee on Commerce, Science, and Transportation, U.S. Senate, October 26, 2021, <https://www.commerce.senate.gov/2021/10/protecting-kids-online-snapchat-tiktok-and-youtube> (accessed November 30, 2021).

²¹ Georgia Wells and Jeff Horwitz, “Facebook’s Effort to Attract Preteens Goes Beyond Instagram Kids, Documents Show,” *The Wall Street Journal*, September 28, 2021, <https://www.wsj.com/articles/facebook-instagram-kids-tweens-attract-11632849667> (accessed November 30, 2021).

²² *Ibid.*

²³ Terry Collins, “Instagram for kids? Facebook explores creating a platform for users under 13,” *USA Today*, March 18, 2021, <https://www.usatoday.com/story/tech/2021/03/18/instagram-kids-facebook-exploring/4757667001/> (accessed November 29, 2021).

²⁴ Brett Molina, “Facebook wants kids under 13 to try new Messenger app,” *USA Today*, December 4, 2017, <https://www.usatoday.com/story/tech/talkingtech/2017/12/04/facebook-rolls-out-kids-version-messenger/918805001/> (accessed November 29, 2021).

²⁵ Shimrit Ben-Yair, “Introducing the newest member of our family, the YouTube Kids app—available on Google Play and the App Store,” YouTube Official Blog, February 23, 2015, <https://blog.youtube/news-and-events/youtube-kids/> (accessed November 30, 2021).

²⁶ Statista, “Distribution of TikTok users in the United States as of March 2021, by age group,” April 15, 2021, <https://www.statista.com/statistics/1095186/tiktok-us-users-age/> (accessed November 29, 2021).

²⁷ Pew Research Center, “Children’s engagement with digital devices, screen time,” July 28, 2020, <https://www.pewresearch.org/internet/2020/07/28/childrens-engagement-with-digital-devices-screen-time/> (accessed November 30, 2021).

²⁸ Georgia Wells, Jeff Horwitz and Deepa Seetharaman, “Facebook Knows Instagram Is Toxic for Teen Girls, Company Documents Show,” *The Wall Street Journal*, September 14, 2021, https://www.wsj.com/articles/facebook-knows-instagram-is-toxic-for-teen-girls-company-documents-show-11631620739?mod=hp_lead_pos7 (accessed November 30, 2021).

²⁹ Julie Jargon, “Teen Girls Are Developing Tics. Doctors Say TikTok Could Be a Factor,” *The Wall Street Journal*, October 19, 2021, <https://www.wsj.com/articles/teen-girls-are-developing-tics-doctors-say-tiktok-could-be-a-factor-11634389201> (accessed November 30, 2021).

³⁰ Abigail Shrier, “When Your Daughter Defies Biology,” *Wall Street Journal*, Jan. 6, 2019, <https://www.wsj.com/articles/when-your-daughter-defies-biology-11546804848> (accessed November 29, 2021).

³¹ “The Facebook Files,” *The Wall Street Journal*, 2021, <https://www.wsj.com/articles/the-facebook-files-11631713039> (accessed November 30, 2021).

³² Federal Trade Commission, “Google and YouTube Will Pay Record \$170 Million for Alleged Violations of Children’s Privacy Law,” September 4, 2019, <https://www.ftc.gov/news-events/press-releases/2019/09/google-youtube-will-pay-record-170-million-alleged-violations> (accessed November 29, 2021).

³³ Adam Mosseri, “Pausing ‘Instagram Kids’ and Building Parental Supervision Tools,” Instagram Blog, September 27, 2021, <https://about.instagram.com/blog/announcements/pausing-instagram-kids> (accessed November 30, 2021).

³⁴ Miles Parks and Shannon Bond, “5 Takeaways From Big Tech’s Misinformation Hearing,” *NPR*, March 25, 2021, <https://www.npr.org/2021/03/25/981203566/5-takeaways-from-big-techs-misinformation-hearing> (accessed November 30, 2021).

³⁵ Michael R. Gordon, Warren P. Strobel and Drew Hinshaw, “Intelligence on Sick Staff at Wuhan Lab Fuels Debate on Covid-19 Origin,” *The Wall Street Journal*, May 23, 2021, <https://www.wsj.com/articles/intelligence-on-sick-staff-at-wuhan-lab-fuels-debate-on-covid-19-origin-11621796228?mod=e2tw> (accessed November 30, 2021).

³⁶ Joe Concha, “Joe Biden’s continued ‘Russian misinformation’ defense of Hunter is conspiracy-level laughable,” December 24, 2020, *The Hill*, <https://thehill.com/opinion/white-house/531543-joe-bidens-continued-russian-misinformation-defense-of-hunter-is> (accessed November 30, 2021).

³⁷ For more on this stratification and the constriction of daily digital life, see upcoming upcoming Frederick, “Big Tech’s Totalitarian Trends.”

³⁸ Breck Dumas, “Facebook admits allowing users to inquire about human smuggling, entering countries illegally,” *Fox Business*, October 19, 2021, <https://www.foxbusiness.com/politics/facebook-admits-human-smuggling-enter-countries-illegally> (accessed November 30, 2021).

³⁹ Gordon Corera, “ISIS ‘still evading detection on Facebook’, report says,” *BBC*, July 13, 2020, <https://www.bbc.com/news/technology-53389657> (accessed November 30, 2021); and Justin Scheck, Newley Purnell and Jeff Horwitz, “Facebook Employees Flag Drug Cartels and Human Traffickers. The Company’s Response Is Weak, Documents Show,”

The Wall Street Journal, September 16, 2021, https://www.wsj.com/articles/facebook-drug-cartels-human-traffickers-response-is-weak-documents-11631812953?mod=article_inline (accessed November 29, 2021).

⁴⁰ These definitions are often based on nebulous, overly broad conceptions of what constitutes "harm" and "hate." The term "hate" is used in vague ways by outside organizations that rely on or have relied on for policy input, like the Southern Poverty Law Center (SPLC). For example, SPLC [classifies](#) the Family Research Council as an "anti-gay hate group" due to their biblical worldview, which represents views held by many conservatives. This trend to label traditional, conservative organizations as "hate groups" will likely only intensify. Other platforms have used similar conceptions of "hate," "harm," and "delegitimizing" elections to [suspend services to conservative groups](#) like regional chapters of the Tea Party. Further, companies like Facebook maintain an unevenly applied standard regarding the delegitimization of elections. In a high-profile example, Stacey Abrams [has not yet conceded](#) her 2018 gubernatorial election, alleging the [process was unfair](#), and yet she still maintains a profile on the platform. Her voting initiatives are amplified and proliferate widely on social media. Additionally, Antifa and BLM posts that celebrate and stoke violence and "real-world harm" do not appear to be as visibly or routinely purged from the platform at a comparable rate.

⁴¹ This list is not exhaustive. For additional policy recommendations from The Heritage Foundation on Section 230, please see: Klon Kitchen, "Section 230—Mend it, Don't End it," Heritage Foundation Publication No. 6020, October 27, 2020, pp. 1-12, https://www.heritage.org/sites/default/files/2020-10/IB6020_1.pdf.

⁴² Jon Schweppe and Craig Parshall, "Here's A Small-Government Solution To Section 230's Big Tech Problem," *The Federalist*, February 14, 2021, <https://thefederalist.com/2020/02/14/heres-a-small-government-solution-to-section-230s-big-tech-problem/> (accessed November 30, 2021).

⁴³ Author discussions with Heritage's Edwin Meese III Center for Legal and Judicial Studies scholars John Malcolm, GianCarlo Canaparo, and Paul Larkin in Washington, D.C. from June 2021 to present.

⁴⁴ Frederick, "Big Tech's Totalitarian Trends" and discussions with Heritage's legal scholar John Malcolm in Washington, D.C. throughout October 2021.

⁴⁵ Kitchen, "Section 230—Mend it, Don't End it;" Other Section 230 reforms proposed by the Heritage Foundation in October 2020 include: Define "good faith" more clearly; clarify "no effect" on anti-terrorism, child sex abuse, and cyber-stalking laws; and do not make liability protections contingent on "exceptional access" or similar law enforcement cooperation.

⁴⁶ Discussion with Heritage's John Malcolm at a private Heritage Foundation event in Orlando, FL on November 11, 2021.

⁴⁷ Press Statement, "Heritage Expert: Section 230 Reform Bill Is a Measured Tool to Hold Big Tech Accountable," Heritage Foundation, July 29, 2021, <https://www.heritage.org/press/heritage-expert-section-230-reform-bill-measured-tool-hold-big-tech-accountable> (accessed November 30, 2021).

⁴⁸ Meta Transparency Center, <https://transparency.fb.com/data/> (accessed November 30, 2021).

⁴⁹ Rob Bluey, "Big Tech's Conservative Censorship Inescapable and Irrefutable," *The Washington Times*, September 21, 2021, <https://www.washingtontimes.com/news/2021/sep/21/big-techs-conservative-censorship-inescapable-and-/> (accessed November 2, 2021).

⁵⁰ The Federal Trade Commission, <https://www.ftc.gov/enforcement> (accessed November 30, 2021).

⁵¹ Discussion with Heritage Director of Technology Policy Lora Ries on November 30, 2021 in Washington, D.C.

⁵² The proprietary designs of each companies' individual algorithms are distinct from reports on how their algorithms operate and impact users.

⁵³ Facebook's proposed reforms would effectively cement their dominant position in the market and stiff-arm smaller competitors and/or new entrants.

⁵⁴ Frederick, "The Infodemic: Regulating the New Public Square."