

August 2, 2017

The Honorable Rob Portman
448 Russell Senate Office Building
Washington, DC 20510

The Honorable Richard Blumenthal
706 Hart Senate Office Building
Washington, DC 20510

Dear Senator Portman and Senator Blumenthal:

On behalf of the Consumer Technology Association (CTA), I am writing to express concerns with the *Stop Enabling Sex Traffickers Act of 2017*, which proposes amendments to Section 230 of the Communications Decency Act (CDA230). While well intended, the bill as written would severely undermine the structure of the U.S internet economy.

Congress' passage of Section 230 two decades ago was a visionary act. Policymakers realized that if online intermediaries were held responsible for the actions of each and every user, the potential liability would be so massive that no reasonable person would start or invest in such a business. Moreover, subsection (c)(2) of Section 230 provides protection for voluntary efforts by intermediaries to police user postings – protection that this legislation would now *remove*.

The decision to enact Section 230 intermediary protections paid off spectacularly. America now dominates the online economy, and U.S. companies, such as those represented in CTA's Disruptive Innovation Council, are the central platform for the world's commerce, communications and entertainment.

Unfortunately, by creating new carve-outs to Section 230, the proposed legislation threatens to reverse these gains and cause significant harm to legitimate online services.

By enabling civil lawsuits under state law, the legislation invites trial lawyers to bring an onslaught of frivolous and vexatious lawsuits against internet companies simply by including an allegation of sex trafficking. Similarly, politically motivated state attorneys general can be counted on to use the new loophole to bring broad and costly subpoenas against online platforms, and state legislators could threaten internet intermediaries on a national basis by amending existing laws so as to invite such suits. Law-abiding

companies would bear the burden of these lawsuits, while bad actors could easily escape by changing their URL addresses or relocating abroad.

Without the protections of Section 230 internet platforms would be legally liable for all user content and forced to engage in resource-intensive review and self-censorship, while losing protection for their own voluntary initiatives to inspect posted content. As an association that represents primarily small businesses, we are aware that these burdens will fall most heavily on startups and entrepreneurs.

New legislation is not necessary to enable the Department of Justice (DOJ) to prosecute sex trafficking, since federal crimes are not covered by Section 230. There is nothing preventing the DOJ from bringing charges against rogue sites right now. Indeed, Congress recently enhanced the DOJ's power in this area by adding "advertising" to the definition of "trafficking" as part of the Stop Advertising Victims of Exploitation Act (SAVE Act) in 2014.

Rather than advancing overly broad legislation that would harm legitimate U.S companies, we urge Congress to take a narrow approach that directly targets bad actors. Specifically, Congress should urge the Department of Justice to aggressively use its powers to identify and prosecute the limited number of rogue websites that are violating the law.

Meanwhile, the technology industry will continue to work together, and with Congress and law enforcement, on meaningful and effective solutions to sex trafficking.

Sincerely,

A handwritten signature in black ink, appearing to read "Gary Shapiro". The signature is fluid and cursive, with the first name "Gary" being more prominent than the last name "Shapiro".

Gary Shapiro
President and CEO
Consumer Technology Association

cc: The Honorable John Thune
Chairman, Senate Committee on Commerce, Science, and Transportation

The Honorable Bill Nelson
Ranking Member, Senate Committee on Commerce, Science, and Transportation

The Honorable Chuck Grassley
Chairman, Senate Committee on the Judiciary

The Honorable Dianne Feinstein
Ranking Member, Senate Committee on the Judiciary