



February 23, 2021

The Honorable Josh Schultz, Chair
Senate Committee on Commerce
State Capitol
1007 E. Grand Avenue
Des Moines, IA 50319

RE: SF 402 - Internet Association Opposes

Dear Chairman Schultz and Members of the Committee:

Internet Association (IA) appreciates the opportunity to explain our opposition to SF 402 regarding online content moderation.

IA is the only trade association that exclusively represents leading global internet companies on matters of public policy. Our mission is to foster innovation, promote economic growth, and empower people through the free and open internet. We believe the internet creates unprecedented benefits for society and the economy and, as the voice of the world's leading internet companies, IA works to ensure legislators, consumers, and other stakeholders understand these benefits.

IA explains, below, how Section 230's protections benefit consumers, but first it is important to note that your bill raises important constitutional concerns. As you know, Iowa's Constitution, Article 1, Section 7 protects freedom of speech. It is well established that the companies covered by this bill have First Amendment rights in their content moderation decisions. Justice Kavanaugh wrote for the Supreme Court that such rights are an inherent part of their property rights. Thus, we believe that SF 402 is unlikely to survive scrutiny in the courts, but there are also important policy reasons why it should not move forward.

In 1996 the US Congress passed Section 230 of the Communications Decency Act (Section 230) with bipartisan support. The purpose was to ensure that online service providers could allow individuals to post content to their platforms and that the platform could moderate that content without being legally viewed as the "publisher." Without Section 230, the law could treat a provider who turns a blind eye to harmful content more favorably than a platform that takes action to try to protect consumers. *Congress made clear its intent that Section 230 should empower providers to engage in content moderation.*

The plain language of Section 230, and decades of case law, have allowed online platforms to make their services safe for users and delete harmful, dangerous, and illegal content. Internet companies work hard to do this consistently through the use of machine learning and human review, and these efforts will continue to improve as the technology does.

In order to realize the full benefits of online services, it is critical that service providers are able to set and enforce robust rules designed to protect the quality and integrity of their services. Today, providers



regularly take action against spam, malware and viruses, child sexual abuse material, scams, threats and harassment, impersonation, non-consensual intimate images, and other content that, regardless of whether illegal or legal, is harmful to the users of their services and the public at large. SF 402 would put the safety measures providers take on a daily basis at risk by seeking to limit the scope of enforcement that can be undertaken without the threat of litigation and numerous other punitive measures. Consumers will not benefit from this.

Decisions regarding the removal of objectionable content are sometimes easy and uncontroversial, but other times these decisions are not black and white, they are tough calls, different shades of gray, where reasonable individuals can disagree with the results. Regardless, these decisions are made constantly and as consistently as possible as 100s of millions of pieces of new content are shared every single day across social media platforms. The companies aren't perfect, but they are doing their best to be a place where ideas can flourish while also enforcing these basic community standards.

SF 402, however, would put online companies in the position of defending these content moderation decisions in the court of law. Regardless of whether a platform was acting appropriately under the bill, individual users would still be empowered to sue and take the company to court to challenge content decisions. This would be an untenable situation, leading either to a more curated internet (where less diverse voices can be heard), or to an unbridled internet where harmful content overwhelms the healthy discourse and exchange of ideas that we all desire.

For those reasons, IA requests the Senate Commerce committee not move SF 402 forward. If you have any questions please reach out to me at colleen@internetassociation.org or 773-425-8515.

Thank you for your consideration.

Sincerely,

A handwritten signature in blue ink that reads 'Colleen Daley'.

Colleen Daley
Director, Midwest Region, State Government Affairs