

Google Lobbyist Writing Congressional Staffers, Urging Them To Not Amend Section 230 of the Communications Decency Act

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Subject: CDA 230 Issue

Team [REDACTED],

I wanted to bring to your attention an issue that is picking up steam in the Senate and the House that has the potential to seriously jeopardize the internet ecosystem. It's our hope that your boss will not co-sponsor H.R. 1865 and will let Chairman Thornberry and House Leadership know that this controversial legislation should be considered under regular order, rather than attached to a must-pass piece of legislation like the NDAA.

As you may have seen yesterday, a number of Senators, led by Senators Portman and McCaskill, have introduced a bill, S. 1693, the Stop Enabling Sex Traffickers Act of 2017, aimed at fighting sex trafficking - basically by trying to go after a single bad actor, Backpage.com. They have been working with Rep. Wagner, who has a slightly different companion bill, H.R. 1865, the Allow States and Victims to Fight Online Sex Trafficking Act of 2017.

Unfortunately, in doing so, the bills undercut one of the foundational statutes for the Internet: Section 230 of the Communications Decency Act (CDA 230). CDA 230 provides that platforms, websites, ISPs, web-hosting providers, and online advertisers are not held liable for the actions of users.

Rep. Wagner has been working her bill hard, she added 60 co-sponsors on Friday, and there are rumors that the Senators are attempting to attach their bill to the NDAA.

I wanted to send you the statements from a number of tech trade associations (below), so that you and your boss can understand the industry's concern with this legislation. These were just generated in the last 24 hours and it's our understanding that even more trade associations as well as a number of conservative groups will be adding their voices of concern soon.

In terms of our ask, we would like your boss to recognize the controversial nature of this issue, and, hopefully, stay off of H.R. 1865 as a co-sponsor. Further, even if you feel that these bills are ultimately the right solution to this challenging issue, we hope that you agree that they should be considered under regular order and not attached to legislation such as the NDAA.

Feel free to reach out if you would like us to come in and chat about our concerns with the legislation in greater detail. We'd be happy to do so and to highlight some of the work that Google has done fighting [human trafficking](#).

- [Letter from CompTIA, CCIA, IAB, IA, ICC, I2C, NetChoice, SIIA, Tech:NYC, and The Internet Society](#)

- “New legislation is not necessary to hold rogue actors accountable for participation in illegal activity.”
- “In addition, the Senate Permanent Subcommittee on Investigations and the Washington Post have recently reported on evidence that indicates [Backpage.com](#) has likely violated federal trafficking laws and could be prosecuted by the DOJ.”
- “By creating new carve-outs to CDA230, this language will have the unintended consequence of allowing opportunistic trial lawyers to bring a deluge of frivolous litigation targeting legitimate, law-abiding intermediaries and create the potential for unpredictable, inconsistent enforcement by state authorities for political or monetary gain.”
- “The carve-out would have significant unintended consequences, and would actually create significant liability risk for companies that attempt to stop trafficking content from reaching their platforms.”
- “The threat of vexatious subpoenas and increased liability under the proposed carve-out would likely result in mass removals of legitimate content.”
- [Statement of Gary Shapiro, The Consumer Technology Association](#)
 - “We recognize that attempts to amend Section 230 target sex traffickers are well intended. However, the likely result will be to create a trial lawyer bonanza of overly-broad civil lawsuits. More, the Department of Justice has the legal authority to go after sex traffickers and bad actors now, without additional legislation.”
 - “CTA urges Congress to focus on targeted actions addressing sex traffickers and bad actors, and avoid broad-based actions that would erode fundamental internet protections and harm legitimate internet businesses.”
- [Statement of Evan Engstrom, Engine Advocacy](#)
 - “Holding platforms liable if they have “knowledge” of certain user activities will discourage websites from partnering with law enforcement or otherwise engaging in voluntary initiatives to stamp out trafficking on their sites, lest they be held to have effective knowledge of user activities that could create legal liability.
 - “We are eager to work with law enforcement and anti-trafficking groups to craft policies that put an end to online human trafficking, but we fear that the approach proposed in the Stop Enabling Sex Traffickers Act will have serious unintended consequences on the startup ecosystem without any meaningful impact on the bad actors the bill is nominally meant to address.”
- [Competitive Enterprise Institute, 7/31: Protect Free Speech Guarantees of Communications Decency Act](#)
 - “My dismay deepened today upon learning that Senators Rob Portman (R-OH) and Claire McCaskill (D-MO) plan to introduce legislation that may hem in on the Internet and undercut sound principles of justice in similar ways to the House bill.”
 - “But it would be profoundly concerning and regrettable for all of us fully law-abiding Internet users if the effort to stop Backpage were to undercut the sound principle that online intermediaries hosting or republishing others’ speech are not legally responsible for what those others say and do.”

