



Before the Federal Communications Commission

Re: Report No. 3157)
Consumer & Governmental Affairs) **Rm 11862**
Bureau Reference Information Center) **47 U.S.C § 230**
Petition For Rulemakings)

**Comments of the Consumer Federation of America
In Opposition To the Rulemaking**

September 2, 2020

The Consumer Federation of America is quite convinced that the antitrust and regulatory oversight of the digital communications sector is in desperate need of a reinvigoration after decades of extremely lax enforcement that has failed to promote competition and protect consumers. We also believe that immunity from liability is a serious and important issue that should be addressed as antitrust and regulatory oversight are recalibrated to deal with the digital economy.

However, we believe it would be a mistake to deal with these challenging issues in a piecemeal, “siloed” approach. A much more comprehensive review of antitrust and a new regulatory agency are necessary to address the many harms that have been visited on consumers by the dominant players in the digital communications sector.

To ensure that policymakers address the problems of the digital communications sector, we have launched a series of reports entitled “The Quarterlife Crisis of the Digital Revolution: Great Potential, Benefits and Harms that Can Only be Addressed by Pragmatic, Progressive Capitalist Policy.” The working papers examine two industries that are directly relevant to this proceeding, big broadband networks and big data platforms.

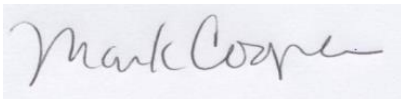
While the immunity that dominant big data platforms claim based on Section 230 has anticompetitive impact, this impact is a very small part of the anti-competitive structure of the big data market. Moreover, it is a very small part of the anticompetitive conduct that permeates the big data platforms market.

We seriously doubt that a section 230 proceeding instigated by a blatantly politically-driven goal can come to any good. This is particularly the case when that proceeding is being conducted by an agency, the Federal Communications Commission (FCC), which has sought to deregulate the core sectors of the digital communications ecology, failing to ensure nondiscrimination in the carrying of internet traffic or prevent abuse of the control of the Business Data chokepoint.

Section 230 liability raises many issues that are not simply economic in areas like privacy and universal service where the FCC has been entirely ineffective. Over-broad immunity also has implications beyond the communications sector in product safety, where platforms use section 230 to avoid liability under safety laws. The FCC, acting on its current authority, is likely to be severely constrained by limitations on its power, even if it was inclined to do something meaningful. Given its recent decisions to abandon oversight over anticompetitive conduct, we are dubious of its intentions. Moreover, its own deregulatory words are certain to be thrown into its face.

While commenters may recognize the weak positions that the FCC has taken on issues that are in its jurisdiction, by choice, it is also extremely important to recognize that the FCC is likely to take very weak action when it comes to issues that fall outside of its jurisdiction. Because of CFA's very broad coverage of consumer issues, we recognize the importance of safety implications since platforms can use 230 as a liability shield and an explanation for why they do not need to comply with safety laws; but the FCC should not have anything to do with that.

Serious rebooting of antitrust and regulation of the digital communications sector is in order, but this proceeding and this agency are neither the time nor the place for such an important challenge.



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[The Consumer Federation of America](#) is an association of more than 250 nonprofit consumer organizations that was established in 1968 to advance the consumer interest through research, advocacy, and education.