



Congress of the United States
House of Representatives
Washington, DC 20515-3605

October 20, 2020

The Honorable Ajit Pai
Chairman
Federal Communications Commission
45 L Street NE
Washington, DC 20554

Dear Chairman Pai,

We are writing today to commend you for your statement that the Federal Communications Commission (FCC) would move forward with a rulemaking process to clarify Section 230 of the Communications Decency Act. The latest incident where Facebook and Twitter censored or otherwise manipulated algorithms affecting the distribution of a *New York Post* story is the most recent, but not the only, evidence that this issue should be revisited.

Facebook admitted that it was “reducing its distribution on our platform” in reference to the *New York Post* story alleging that Hunter Biden had arranged to introduce a Ukrainian businessman to then-Vice President Joe Biden. Essentially, the platform was taking links to the story out of its algorithm, and it did so prior to undertaking any independent fact-checking of the story. Similarly, Twitter admitted it was blocking the links and required the *New York Post* to delete its tweet about the story.

This *New York Post* story was banned prematurely and arbitrarily. The same rules were not applied by Facebook and Twitter to stories about President Trump and Russia, many of which ultimately proved to have no basis in fact and helped promote a three-year partisan witch hunt. The evidence now suggests that the entire line of inquiry was based on a fake dossier, planted by the Hillary Clinton campaign, and pushed forward by the Obama-Biden Administration.

Exercising editorial control of the news is ultimately not the role of an online platform which should remain neutral if it wishes to enjoy Section 230 protections. In fact, Section 230 provides legal protections to platforms from being liable for allowing hundreds, if not thousands, of fake “Trump Russian collusion” allegations from major media outlets to appear in their feeds. By now admitting they are acting as arbitrary editors and selecting which news content users can and cannot see, these online platforms are clearly acting outside of the original intent of the Section 230 protections.

Not only does this type of censorship put these online platforms' Section 230 protections at risk, it is a threat to the First Amendment protections of a free press. It raises questions as to interference in the 2020 election by social media and other online platforms used by hundreds of millions of Americans. And, it should shine a spotlight on past actions taken by platforms like Google, Facebook and Twitter to put in place policies and procedures in a manner that had a direct impact on the outcome of past elections.

As the FCC weighs whether new Section 230 regulations are in order, we ask that you consider the following questions:

1. Does the censorship of the *New York Post* content violate existing FCC regulations?
2. Do you believe the censorship of the *New York Post* content could remove an online platform's protections under Section 230 as it relates to the specific incident?
3. If so, could online platforms with a policy for exercising editorial control over news content cause it to be treated as a publisher generally and lose its Section 230 protections altogether?
4. Do you believe incidents like this one call on Congress to pass clarifying legislation to draw a clearer statutory line between publisher and platform under Section 230 or can this be done through rulemaking?
5. Are there any existing FCC regulations regarding election interference that online platforms should take into account when considering their exposure to liability?

Please provide a response not later than 5:00pm on October 27, 2020.

Sincerely,



Michael Cloud
Member of Congress



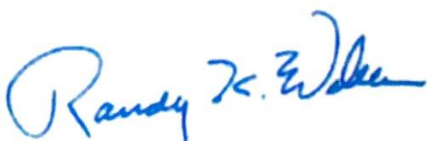
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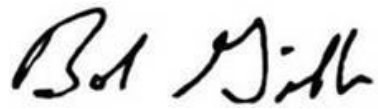
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