

## How this Amends 230

### As Amended by the Hawley Bill

#### (c) Protection for “Good Samaritan” blocking and screening of offensive material

##### (1) Treatment of publisher or speaker

**(A) IN GENERAL.—Subject to subparagraph (B), no provider**~~—No provider—~~ or user of an **interactive computer service** shall be treated as the publisher or speaker of any information provided by another **information content provider**.

**(B) CONDITION.—With respect to an edge provider, subparagraph (A) shall only apply if the provider adopts and maintains written terms of service that—**

**(i) take precedence over other such terms in case of any conflict between the sets of terms;**

**(ii) describe any policies of the edge provider relating to restricting access to or availability of material; and**

**(iii) promise that the edge provider shall—**

**(I) design and operate the provided service in good faith; and**

**(II) if the provider is found, in a civil action brought in Federal or State court, or by an arbitrator, to breach the promise made under sub2 clause (I) with respect to a claimant 3 user, pay that user—**

**(aa) the greater of—**

**(AA) damages of not less than \$5,000; or**

**(BB) actual damages;**

**and**

(bb) with respect to litigation or arbitration by the user to enforce the promise—

(AA) a reasonable attorney’s fee; and

(BB) costs and other expenses described in sections 1821 and 1920 of title 28, United States Code (or, in the case of an action brought in State court or through arbitration, any similar costs and other expenses).

**(2) Civil liability** No provider or user of an **interactive computer service** shall be held liable on account of—

**(A)** any action voluntarily taken in good faith to restrict access to or availability of material that the provider or user considers to be obscene, lewd, lascivious, filthy, excessively violent, harassing, or otherwise objectionable, whether or not such material is constitutionally protected; or

**(B)** any action taken to enable or make available to **information content providers** or others the technical means to restrict access to material described in paragraph (1).<sup>[1]</sup>

(3) GOOD FAITH.—For the purposes of this subsection, a provider of an interactive computer service—

(A) acts in good faith if the provider acts with an honest belief and purpose, observes fair dealing standards, and acts without fraudulent intent; and

(B) does not act in good faith if the provider takes an action that includes—

(i) the intentionally selective enforcement of the terms of service of the interactive computer service, including the intentionally selective enforcement of policies of the provider relating to restricting access to or availability of material;

(ii) enforcing the terms of service of the interactive computer service, including enforcing policies of the provider to restrict access to or availability of material, against a user by employing an algorithm that selectively enforces those terms, if the provider knows, or acts in reckless disregard of the fact, that the algorithm selectively enforces those terms;

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(iii) the intentional failure to honor a public or private promise made by, or on behalf of, the provider; or

(iv) any other intentional action taken by the provider without an honest belief and purpose, without observing fair dealing standards, or with fraudulent intent.

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## **(e)Effect on other laws**

### **(1)No effect on criminal law**

Nothing in this section shall be construed to impair the enforcement of section 223 or 231 of this title, chapter 71 (relating to obscenity) or 110 (relating to sexual exploitation of children) of title 18, or any other Federal criminal statute.

### **(2)No effect on intellectual property law**

Nothing in this section shall be construed to limit or expand any law pertaining to intellectual property.

### **(3)State law**

Nothing in this section shall be construed to prevent any State from enforcing any State law that is consistent with this section. No cause of action may be brought and no liability may be imposed under any State or local law that is inconsistent with this section.

### **(4)No effect on communications privacy law**

Nothing in this section shall be construed to limit the application of the Electronic Communications Privacy Act of 1986 or any of the amendments made by such Act, or any similar State law.

**(5)No effect on sex trafficking law** Nothing in this section (other than subsection (c)(2)(A)) shall be construed to impair or limit—

**(A)** any claim in a civil action brought under section 1595 of title 18, if the conduct underlying the claim constitutes a violation of section 1591 of that title;

**(B)** any charge in a criminal prosecution brought under State law if the conduct underlying the charge would constitute a violation of section 1591 of title 18; or

**(C)** any charge in a criminal prosecution brought under State law if the conduct underlying the charge would constitute a violation of section

2421A of title 18, and promotion or facilitation of prostitution is illegal in the jurisdiction where the defendant's promotion or facilitation of prostitution was targeted.

(6) NO EFFECT ON LEGAL PROMISES.—Nothing in this section shall be construed to impair or limit any claim for breach of contract, promissory estoppel, or breach of a duty of good faith.

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**(f) Definitions**As used in this section:

**(1) Internet**

The term "Internet" means the international computer network of both Federal and non-Federal interoperable packet switched data networks.

**(2) Interactive computer service**

The term "interactive computer service" means any information service, system, or access software provider that provides or enables computer access by multiple users to a computer server, including specifically a service or system that provides access to the Internet and such systems operated or services offered by libraries or educational institutions.

**(3) Information content provider**

The term "information content provider" means any person or entity that is responsible, in whole or in part, for the creation or development of information provided through the Internet or any other interactive computer service.

**(4) Access software provider**The term "access software provider" means a provider of software (including client or server software), or enabling tools that do any one or more of the following:

**(A)**filter, screen, allow, or disallow content;

**(B)**pick, choose, analyze, or digest content; or

**(C)**transmit, receive, display, forward, cache, search, subset, organize, reorganize, or translate content.

(5) EDGE PROVIDER.—The term 'edge provider'—

(A) means an entity that—

(i) provides an interactive computer service—

(I) through a website, online application, or mobile application (including a single interactive computer service that is provided through more than 1 such website or application);

(II) through which information provided by another information content provider is distributed; and

(III) that, in any month during the most recently completed 12-month period—

(aa) more than 30,000,000 users in the United States accessed, without regard to the means by which the users accessed the service; or

(bb) more than 300,000,000 users worldwide accessed, without regard to the means by which the users accessed the service; and

(ii) during the most recently completed taxable year, had more than \$1,500,000,000 in global revenue; and

(B) does not include an organization described in section 501(c) of the Internal Revenue Code of 1986 that is exempt from taxation under section 501(a) of such Code.

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