

Before the
Federal Trade Commission
Washington, D.C.

In re

Request for Public Comments Regarding
Technology Platform Censorship

Docket No. FTC-2025-0023-0001

COMMENTS OF
THE COMPUTER & COMMUNICATIONS INDUSTRY ASSOCIATION (CCIA)

In response to the Request for Information (RFI) published by the Federal Trade Commission (FTC),¹ the Computer & Communications Industry Association (CCIA)² submits the following comments, which provide a broad overview of content moderation and trust and safety from an industry-wide perspective. CCIA appreciates the opportunity to provide input on digital services' compliance with existing law and their policies, as regularly documented in voluntary transparency reports.³

I. Introduction

In addition to promoting free expression online, leading digital services are committed to ensuring consumer trust and safety online for all users, especially children. Bad actors like

¹ Available at https://www.ftc.gov/system/files/ftc_gov/pdf/P251203CensorshipRFI.pdf. Comments are being accepted on Regulations.gov at <https://www.regulations.gov/document/FTC-2025-0023-0001/comment>. Pursuant to the Regulations.gov Commenter's Checklist, which can be found on this docket at <https://www.regulations.gov/commenton/FTC-2025-0023-0001>: "After submission, your comment will be processed by the agency and posted to Regulations.gov. At times, an agency may choose not to post a submitted comment. Reasons for not posting the comment can include:" "The comment contains profanity or other inappropriate language." As content moderation experts have observed, some comments in this docket are being restricted as "Profanity" or "Inappropriate." See, e.g., <https://bsky.app/profile/daphnek.bsky.social/post/3lnnp3tc56k2r>; <https://bsky.app/profile/daphnek.bsky.social/post/3lnl5bw4zec2f>.

² CCIA is an international, not-for-profit trade association representing a broad cross section of communications and technology firms. For more than 50 years, CCIA has promoted open markets, open systems, and open networks. CCIA members employ more than 1.6 million workers, invest more than \$100 billion in research and development, and contribute trillions of dollars in productivity to the global economy. A list of CCIA members is available at <https://www.ccianet.org/members>.

³ See, e.g., Digital Trust & Safety Partnership, *The Safe Assessments: An Inaugural Evaluation of Trust & Safety Best Practices* at 37 (July 2022), https://dtspartnership.org/wp-content/uploads/2022/07/DTSP_Report_Safe_Assessments.pdf (Appendix III: Links to Publicly Available Company Resources).

predators and criminals misuse services to perpetrate fraud, scams, viruses, or malware, and a significant amount of content moderation is focused on these and similar harms. Responsible services invest heavily in combating this illegal and dangerous content that violates their terms of service, with content moderation at scale requiring a mix of both automated tools and human review.

These comments outline many of those considerations, including: (1) content moderation is a tool (and right) employed by digital services to protect users while facilitating speech; (2) digital services' legal compliance obligations prompt and impact content moderation decisions; and (3) services must employ diverse and context-based approaches to content moderation given varied considerations and evolving trust and safety expectations of users.

II. Digital Services Exercise Their First Amendment Right to Curate Content to Promote Trust and Safety and Free Expression

Facing millions of content moderation decisions daily and confronted with a spectrum of bad actors, dangerous content, and harmful material, digital services avail themselves of various content moderation tools to protect their users, and themselves. Removing content is not the only tool in the content moderation toolbox. For example, mechanisms like community notes can also enable individuals to provide context in some situations, helping users find high-quality information they can trust. Services may also act to limit the reach of certain content without removing it. The policies and practices underlying these decisions are constantly evolving, as service providers improve on their methodologies and engage with users to develop the types of communities and values that keep those users coming back. Digital services have diverse content moderation policies, and these policies may be implemented in a variety of ways. When digital services adopt policies that are similar, for example in response to current events, this is

generally because digital services are businesses responding to the same business incentives to serve users and advertisers.

When companies have to make millions of calls in real time at scale, not everyone is going to agree with every decision. Regardless, private companies have constitutional rights to curate what information they display. The First Amendment protects digital services' editorial discretion to decide what speech to host or not, and enables them to define themselves in part by those decisions. Along with the First Amendment, Section 230 of the Communications Act protects companies from liability for their content moderation decisions — including the speech they host. Together, these protections have allowed digital services to develop a vibrant and expansive environment of communication and exchange of ideas.

Consumers are empowered to choose online communities that fit their values and interests, including picking services whose content moderation terms align with how the consumers define harmful content. This facilitates robust competition throughout the technology sector by enabling organizations of all sizes online to differentiate themselves with their featured content and policies, ensuring that users online can access the information most important to them.

Government actors, whether Democratic or Republican officials, should not be jawboning private businesses regarding whether particular lawful content comes down or stays up. As the Supreme Court has repeatedly made clear, no government actor may prevent—or compel—speech, as doing so violates the First Amendment of the U.S. Constitution. Only when governments silence speech is it censorship, and unconstitutional.

III. Legal Requirements Also Inform Content Moderation Decisions

In many cases, digital services take action based on content or conduct on that service. However, they may also take action—or be required to take action—based on conduct that took

place off of a service. While the RFI suggests it may be inappropriate for digital services to base content moderation decisions on “activities that take place outside the platform,” such actions are often driven by legal considerations. For example, many businesses will not extend their services to entities that are on the Office of Foreign Assets Control’s (OFAC) Specially Designated Nationals and Blocked Persons list, as Federal law prohibits U.S. persons from conducting any transactions with these entities. Businesses operating in the United States are obligated to refuse services to those on the list unless a special license is obtained from OFAC, and even entities not subject to these restrictions, such as foreign businesses, often choose to refrain from engaging in any transactions with designated persons. Internet services that likely fall within the RFI’s extremely broad definition of “technology platforms”⁴ must comply or face significant legal liability and severe penalties.

Another facet of content moderation seeks to protect the intellectual property rights of individuals and companies, by prohibiting the posting of IP-violating content. However, tools intended to reduce copyright infringement also regularly receive fraudulent and abusive notices intended to silence speech.⁵ Over-reaching claims of copyright infringement that in fact are fabrications intended to remove content considered undesirable by the claimant are common.⁶ Examples range from submitting claims to remove political speech online⁷ to those targeting political advertisements during presidential campaigns.⁸

⁴ RFI at 1, note 1 (“Technology platforms may include, among others, companies that provide social media, video sharing, photo sharing, ride sharing, event planning, internal or external communications, or other internet services.”).

⁵ Matt Schruers, *Claims Against Trump Campaign Video Call for Revisiting Intersection of Speech and Copyright*, Disruptive Competition Project (June 6, 2020), <https://project-disco.org/intellectual-property/060620-claims-against-trump-campaign-video-call-for-revisiting-intersection-of-speech-and-copyright/>.

⁶ Andrea Fuller, Kirsten Grind & Joe Palazzolo, *Google Hides News, Tricked by Fake Claims*, Wall St. J. (May 15, 2020), <https://www.wsj.com/articles/google-dmca-copyright-claims-takedown-online-reputation-11589557001>.

⁷ *Attempt to Silence the Political Speech at Right Wing Watch*, EFF Takedown Hall of Shame (Dec. 8, 2013), <https://www.eff.org/takedowns/attempt-silence-political-speech-right-wing-watch>.

⁸ *Campaign Takedown Troubles: How Meritless Copyright Claims Threaten Online Political Speech*, Center for Democracy & Technology (Oct. 6, 2010), https://cdt.org/wp-content/uploads/pdfs/copyright_takedowns_0.pdf.

Because online service providers (OSPs) are required to respond expeditiously to compliant takedown notices in order to benefit from the 17 U.S.C. § 512 safe harbor for user-generated content, they may err on the side of taking down even non-infringing content, due to the risks of statutory damages and ruinous litigation. If OSPs were empowered to reject questionable copyright claims by putative rightsholders, it could limit suppression of speech, but as U.S. copyright law currently stands, they can be bent to the will of anonymous claimants under threat of draconian liability—up to \$150,000 in statutory damages per work infringed. Because the penalties for copyright claimants making misrepresentations under § 512(f) are so weak, there is insufficient deterrent to lying about copyright ownership in order to suppress whatever commentary one doesn’t like—including actual government censorship.⁹

IV. There Is No One-Size-Fits-All Approach to Trust and Safety

There is no one-size-fits-all approach to trust and safety work, and individual companies have their own content policies guided by their values, products, and risks. Digital services’ content moderation actions and trust and safety operations are business judgments about security and liability risk. These decisions also reflect each service’s preferences and the brand they seek to develop and market to users. Services are consistently enforcing operational and legal actions that are crucial to maintaining their business.

Many businesses offline engage in similar activity, such as vetting users to ensure their services are not being utilized to fund fraud, terrorism, or other illegal activity. Private organizations must also consider reputational consequences and the views of shareholders and customers, and digital services are no different. For this reason, in some cases, a digital service may make different decisions about different users. Many businesses do not want to host

⁹ Alexandra Ellerbeck, *How U.S. copyright law is being used to take down Correa’s critics in Ecuador*, Committee to Protect Journalists (Jan. 21, 2016), <https://cpj.org/2016/01/how-us-copyright-law-is-being-used-to-take-down-co/>.

American Nazi Party candidates, or treat pro-Hamas speech the same way as anti-Hamas speech. Research demonstrates the financial impact on websites, influenced by advertisers and their users, from harmful content.¹⁰

The RFI inquires whether a “platform acted in a consistent manner” with respect to users’ conduct. But this question belies the needs of digital services to develop internal frameworks that account for context, purpose, and evolving approaches to controversial issues. In some instances, content moderation policies with ‘one-size-fits-all’ rules inadvertently restrict all forms of speech without considering context, including those containing educational and news content or historical and academic content about difficult topics or events. The same piece of journalistic or educational content seen by one user as containing information related to a past historical event or current news may be seen as glorifying terrorism by another. Because of this, many digital services rely on case-by-case decisions that do not attempt to treat all information related to one controversial topic in the exact same way, and instead require differential treatment of both users and content.

These decisions do not reflect an effort to “censor” a particular viewpoint or limit discussion; instead, these approaches aim to protect users, comply with existing laws, and enable free expression online. A good faith approach to moderating content prompts digital services to thoughtfully consider the context and impact of speech. A blanket approach designed to avoid governmental second-guessing under the rubric of “consistency” would risk stifling legitimate and thoughtful discussion of issues just because those issues may be controversial.

¹⁰ Melissa Pittaoulis, *Hate Speech & Digital Ads: The Impact of Harmful Content on Brands*, CCIA Research Center (Sept. 5, 2023), <https://ccianet.org/research/reports/hate-speech-digital-ads-impact/>.

V. Conclusion

Digital services' exercise of their First Amendment right to editorial discretion is consistent with the FTC's mission of protecting consumers and competition.¹¹ The exercise of editorial discretion is not only a method of expression; it is also a business decision. Curating content thoughtfully while advancing the free expression of users is how digital services distinguish themselves and compete with one another—just as a newspaper establishes its value and character through editorial decisions.

As the Supreme Court recently recognized: “In a better world, there would be fewer inequities in speech opportunities; and the government can take many steps to bring that world closer. But it cannot prohibit speech to improve or better balance the speech market. On the spectrum of dangers to free expression, there are few greater than allowing the government to change the speech of private actors in order to achieve its own conception of speech nirvana.”¹²

Respectfully submitted,

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¹¹ 15 U.S.C. § 41 et seq.

¹² *Moody v. NetChoice*, 144 S. Ct. 2383, 2407 (2024). See also FCC Commissioner Gomez's Remarks at Media Institute Communications Forum (May 15, 2025), <https://docs.fcc.gov/public/attachments/DOC-411446A1.pdf> (“As the Supreme Court has held, moderation by private companies is itself a form of speech that is protected by the First Amendment. When online platforms respond to their users' demands by moderating content in specific ways, they're not censoring—they're exercising their right to speech. Fact-checking, filtering, and moderation are all legitimate responses to user demand. The government's duty under the First Amendment isn't to second-guess these market offerings. It's to stay out of the way.”).