

**Amendments to Section 230: Eliminating Censorship from “Big Tech!” Version 2.**

Posted on [July 19, 2021](https://writeyourlaws.com/amendments-to-section-230-eliminating-censorship-from-big-tech-version-2) by [Greg Penglis](https://writeyourlaws.com/author/greg)

**Rationale:**

This is my second bill to amend Section 230 of the Communications Decency Act, now part of Title 47 of the US Code. My first bill is way more complex and harder to understand than this new and improved version. Here is how the new bill works.

Where all the problems appear to be centered in law, which allows for “Big Tech” censorship, is in the Civil Liability section of 230 (c)(2), particularly the “good faith” power, which says that providers of “interactive computer services” – social media and search engines – in other words, “Big Tech,” aren’t liable in civil lawsuits for: “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.” The worst term being “otherwise objectionable” because that can mean anything Big Tech wants it to mean.

Section 230 (c)(2) turns out to be for the provider, because users don’t have to sue providers to remove anything objectionable. They can simply block, remove, “unfriend,” not “like,” cancel their account, or any number of other things to stop anything they don’t want to see. Those decisions however are made by individual users, for individual users. The difference with the “providers,” – eg: Facebook, Twitter, Instagram, and Google – is that they make decisions for the whole world. They can do anything to any user for any reason they want, including cancelling a President, and say that it comes under Section 230 (c)(2), and that it was done in “good faith.” Users however can not use “good faith” to do anything to Big Tech about the harassment, victimization, censorship and other crimes brought down upon them by Big Tech, because civil liability immunity in this Section of law means that Big Tech can’t be touched. No one person, company, government department, administration, or any other entity, either public or private, can be allowed that kind of power. Absolute power corrupts absolutely.

What changes everything, is that everything covered in 47 U.S. Code § 230 – Protection for private blocking and screening of offensive material, section (c)(2) Civil Liability – is already covered by the ***Obscenity Laws***! There is no need in law or law enforcement for the same thing to be covered twice. \*\*\* There is no reason to give a good faith power to interactive computer service providers, to remove obscene or other material from the content and posts of users, equal to the power of law enforcement, while simultaneously granting civil liability immunity to providers from being sued for that same user content.

The obscenity laws already allow State and Federal law enforcement, the proper legal authorities, to remove any posting and distribution of obscene material and prosecute those who post and distribute it. Big Tech, through Section 230, have been elevated to the power of government law enforcement agencies by becoming “state actors,” and that is the real problem here. If there is a gap in enforcement because interactive computer services are not specifically mentioned in the obscenity laws, then it is those laws which need to change, not the laws governing interactive computer service providers, and users.

If you take out the “good faith” blocking and screening of offensive material in Section 230 (c)(2), you can grant civil liability immunity to the providers of interactive computer services, and make immunity conditional on not infringing or interacting in any way with what the users of interactive computer services do.  That includes both social media and search engines. Therefore, regarding social media, if the providers: censor, restrict, limit, shadow ban, ban, cancel, suspend for up to 30 days, lower in the news feed, disable groups, fact check, apply community standards, restrict for bullying real or imagined, or take any other action or interaction with the users, their content, or touch their accounts in any way, the providers lose their liability immunity. If search engines are in any way manipulated, changed, arranged, have algorithms applied, or are in any way influenced by applying anything to touch or manipulate the order of search results, deviating in any way from reporting search results based entirely on the raw and untouched number of hits per search result, the providers lose their liability immunity. Given the changes in this law as proposed below, there should be no more censorship ability for Big Tech from this law. Not legally anyway!

Here are the obscenity laws. Source, Cornell Law School, Legal Information Institute:

**https://www.law.cornell.edu/uscode/text/18/part-I/chapter-71**

Here is Title 47, Section 230. Same source as above.

**https://www.law.cornell.edu/uscode/text/47/230**

**Here is the current Publisher / Civil Liability part of US Code, Title 47, Section 230:**

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

     (1) Treatment of publisher or speaker

     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.

     (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).[1]

***These are our Proposed Amendments to Eliminate Censorship:***

**Section 230 (c) would now read:**

(c) Protection for Users from Providers, and civil liability protection for Providers, of interactive computer services.

     (1): Treatment of publisher or speaker:

      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.

     (2) Civil Liability

**Delete current parts (A) and (B), and insert the following:**

          *(A) No provider of interactive computer services shall be liable for any action, interaction, anything post, any content, or any communications, from or by, any user of interactive computer services.*

*(B) Any contact, infringement, interaction, limitation, interference, or any other touching in any way, no matter how minuscule, by any provider of interactive computer services, with any of the following, shall void and revoke all civil liability immunity from that provider: any and all content post and any communications made on social media; any account or any account status on social media; any change or arrangement of search engine results beyond the actual raw, untouched, number of hits.*

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