

Trump's Attack on Free Speech Online

By Daniel Tsadok

Section 230 of the Communications Decency Act, usually referred to as CDA 230, states that "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." That means that websites are not liable for the content posted by the people who use them. CDA 230 protects, for example, Twitter and YouTube from liability for the billions of tweets and videos, respectively, of their users. This is important because it allows most people to publish their views without having to go through a centralized approval process. Content can be taken down after the fact if it violates the platform's terms of service, but the presence of CDA 230 means that there is no gatekeeper. The Electronic Frontier Foundation (EFF) calls it "the most important law protecting internet free speech." They go on to say that "[t]his legal and policy framework has allowed for YouTube and Vimeo users to

upload their own videos, Amazon and Yelp to offer countless user reviews, craigslist to host classified ads, and Facebook and Twitter to offer social networking to hundreds of millions of Internet users... CDA 230 makes the U.S. a safe haven for websites that want to provide a platform for controversial or political speech and a legal environment favorable to free expression."

President Trump's recent Executive Order targets CDA 230 directly. It should be noted that CDA 230 has two subsections: (c)(1) and (c)(2). Section (c)(1) is the part that protects online publishers from content posted by their users. Section (c)(2) protects online publishers from liability if they take down material they deem to be objectionable, provided that they do so in "good faith." The Executive Order appears to be prompted by (c)(2), but is particularly dangerous in that it threatens to take away a publisher's (c)(1) protections altogether if the publisher is found not to have acted in "good faith" in a (c)(2) context. This is not the original intent or meaning of

CDA 230, and this interpretation would allow the Executive Order to be easily abused. It should also be noted that CDA is an Act of Congress, and that this Executive Order directly conflicts with that.

Despite its claim to foster "free and open debate on the Internet," the Executive Order does exactly the opposite. It is an extremely dangerous attack on free speech online, and would open up publishing platforms to endless lawsuits resulting in a massive chilling effect. Perhaps many of us grow tired of the endless barrage of hate and disinformation on the internet, but weakening CDA 230 and making publishers liable for the actions of their users is not the answer.

To read the EFF's legal analysis, which is the source for most of the information in this article, click [here](#).

For more information on CDA 230 in general, click [here](#).

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