

The Online Consumer Protection Act

Overly broad court rulings around Section 230 of the Communications Decency Act and other pro-tech laws have insulated online platforms from accountability to consumers and left Americans with a feeling of helplessness online.

In the two plus decades since the commercialization of the internet, we have seen life for Americans and their families transformed in many positive ways. The internet provides new opportunities for commerce, education, information, and connecting people with friends and loved ones.

However, along with these many new opportunities, we have seen new challenges. Bad actors are stalking the online marketplace using deceptive techniques to influence consumers, deceptive designs to fool them into giving away personal information, stealing their money, and engaging in other unfair practices. This has left many American consumers feeling helpless in the digital world.

Moreover, disinformation and misinformation are running rampant on social media platforms, resulting in a rise in hate and extremist violence, distrust of the COVID-19 vaccine, and distrust of our elections, among other things.

Big tech failed to respond to these grave threats, time and again. Underlying all of this is Section 230 of the Communications Decency Act, which provided online platforms like Facebook a legal liability shield for 3rd party content. And making matters worse, the COVID-19 crisis has only further laid this bare.

The Online Consumer Protection Act would seek to solve this problem by clarifying the law, insomuch as it holds tech platforms accountable for the promises they make to consumers.

The Online Consumer Protection Act would:

- **Require social media platforms and online marketplaces to establish, disclose, and maintain written terms of service.** Required disclosures include how the platform handles health misinformation/disinformation, election misinformation/disinformation, and other important consumer disclosures.

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- **Require social media platforms and online marketplaces to establish a consumer protection program.** This would ensure compliance with applicable consumer protection laws and establish content and conduct that are permissible on the platform.
- **Hold companies accountable when they fail consumers.** Directs the FTC to issue rules under the APA to implement this Act and allows the FTC to seek civil penalties for violations of this Act. This section also provides for a private right of action by individuals harmed by violations of this Act and invalidates forced arbitration agreements. State attorney generals may also bring enforcement actions for violations of this Act, including seeking civil penalties and restitution.
- Importantly, the bill clarifies **Section 230 of the Communications Decency Act does not limit liability with respect to violations of this Act. This section also explicitly states that this Act does not preempt State or local laws.**