



Post-Election Outlook | Content Moderation: Reforming FCC's Section 230

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By: Jennifer L. Richter, Douglas I. Brandon, Steven A. Rowings, Virginia Hiner Antypas, Sharanya Sriram

Congress and/or the Federal Communications Commission (FCC) may also look at reforms to Section 230 of the Communications Decency Act. President-elect Donald Trump and Commissioner Brendan Carr have both expressed support for the FCC taking action to limit the scope of Section 230 and the liability protections enjoyed by online platforms and website operators under the statute. In particular, Commissioner Carr has suggested that the FCC's Section 230 reforms should track the positions outlined in a July 2020 Petition for Rulemaking filed at the FCC by the National Telecommunications and Information Administration (NTIA) near the end of the Trump administration, which proposed extensive limitations on the ability of online platforms to take advantage of the protections of Section 230. More recently, Carr sent a [letter](#) to certain "Big Tech" CEOs seeking information about their companies' use of a certain third-party fact checking organization. Carr's letter indicates that he has concerns that these Big Tech companies' use of the service may violate Section 230's "good faith requirement." In 2022, Trump released a campaign video suggesting, among other things, that companies should only qualify for such protections if they satisfy "high standards of neutrality, transparency, fairness, and non-discrimination" in making content moderation decisions, and that users over 18 should be permitted to opt out of all content moderation on digital platforms. Commissioner Carr has also proposed that the FCC impose transparency rules such as those applicable to broadband providers—including required disclosures about practices that would shape Internet traffic, like blocking, prioritizing or discriminating against content—to Big Tech online platforms.

President-elect Trump and Commissioner Carr have also suggested that the FCC may investigate and take action against broadcasters—potentially up to and including license revocation—who, in the Administration’s view, do not live up to their public interest obligations. For example, President-elect Trump has already suggested that various broadcast networks should lose their FCC licenses (or, more precisely, those held by their owned and operated stations) for various actions of which he disapproves. Commissioner Carr has voiced support for President-elect Trump’s call to strip licenses from major broadcast networks in retaliation for their coverage choices, stating that “we need to keep every single remedy on the table,” and that “one of the remedies the FCC has, ultimately, would be license revocation, if we find that it’s egregious.”

Categories

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